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Fifty-fifth session
Item 13 of the provisional agenda

# RIGHTS OF THE CHILD

## Abduction of children from northern Uganda

## Report of the Secretary-General

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GE.99-10423 (E)

## Introduction

1. At its fifty-fourth session, the Commission on Human Rights adopted resolution 1998/75, entitled "Abduction of children from northern Uganda", in which inter alia it commended in the strongest terms all parties involved in the abduction, torture, killing, rape, enslavement and forceful recruitment of children in northern Uganda.

2. The Secretary-General brought resolution 1998/75 to the attention of the Governments of the Sudan and Uganda by a note verbale dated of 11 November 1998. Their replies are included in the present report, which is submitted pursuant to paragraph 11 of that resolution.

## SUMMARY OF THE SITUATION

3. The armed conflict in northern Uganda has lasted for 12 years, from 1986 to date, with Gulu and Kitgum districts on the border with the Sudan being the worst affected.

4. UNICEF and non-governmental sources state that since 1986 the Lord's Resistance Army (LRA), an armed opposition group, has abducted up to 10,000 children, mostly 14 to 16 years old, but at times as young as 8 or 9, boys and girls alike. Between 5,000 and 8,000 children are estimated to have been abducted since 1995. The children are forced to march for days carrying military equipment and supplies to LRA camps in Uganda and southern Sudan. Many are killed on the way.

5. UNICEF states that more boys are taken than girls, as the primary reason for abduction is to use the children as soldiers. Once they have arrived at the camps, the children are taught how to use weapons and are forced to fight, both in Ugandan and Sudanese territory. Smaller children may be given chores to do and girls as young as 12 are given to commanders as "wives". Each soldier may have several such wives, and many of the children have become pregnant and have contracted sexual diseases. Children who do not perform their assigned tasks satisfactorily are beaten. Children who disobey orders are beaten or killed, and often other abducted children are forced to do the killing. Failed escape attempts are punished by death and successful attempts lead to retaliation against the relatives of the escapee.

## I. INFORMATION PROVIDED BY THE GOVERNMENT OF UGANDA

6. The Government of Uganda estimates that between 6,000 and 10,000 children have been abducted over the past 10 years, the majority of then teenagers. The children are marched between 50 and 100 miles through the bush and then are moved around in the Sudan. Of those who have escaped or have been released, only one in 10 are female.

7. Government troops have been placed in affected areas to provide security and prevent abductions and forcible recruitment. The inhabitants of the villages in and around Gulu and Kitgum come into these protected areas at 6 p.m. every evening.

8. Children who have been involved in hostilities and have subsequently returned or escaped are given amnesty by the Government. In Gulu, a Counselling Centre for Children who are traumatized has been created where children are provided with food, clothes and counselling, and are reunited with their families. Many such children have been able to return to school.

9. A group of Members of Parliament has established an initiative to reach out to the LRA and the Allied Democratic Forces (ADF) in western Uganda, and has appealed to the donor community to provide funding. They are now setting up a non-governmental organization to bring units together to enter into dialogue with the Government.

10. A non-governmental organization, the Concerned Parents' Association, has established itself in Uganda to raise national and international awareness about the situation of these children.

11. The Government of Uganda states that, since the adoption of Commission resolution 1998/75, it has continued to encourage a political solution to the conflict, and states that it remains open to seeking bilateral negotiations with the Sudan.

## II. INFORMATION PROVIDED BY THE GOVERNMENT OF THE SUDAN

12. The Government of the Sudan states that it has always stood firmly against the abduction, torture or recruitment of children as soldiers. In his address on 13 December 1998 to the African Ministerial Meeting on Refugees, Returnees and Displaced People held in Khartoum, the President of the Republic called on Africa to condemn the exploitation and involvement by rebellion movements of children in armed conflicts. He urged joint efforts to trace and free those children, reunite them with their families and spare them the agony and scourge of war.

13. UNICEF has recognized the concern and efforts of the Government of the Sudan with regard to the question of abducted children in northern Uganda, and confirmed during the fifty-fourth session of the Commission on Human Rights that the Government of the Sudan is complying with its humanitarian requirements in that abducted children are being allowed to return home.

14. The Special Representative of the Secretary-General on the impact of armed conflict on children, visited the Sudan between 14 and 17 June 1998, and expressed appreciation to the Government of the Sudan for its cooperation in facilitating the release of three children abducted by Ugandan rebel groups and their repatriation to Uganda. He expressed hope for the Government's continued cooperation on the matter.

15. The Government of the Sudan has repeatedly pledged to free and facilitate the return of any children found inside Sudanese territory. The Minister of External Relations, among other high officials, conveyed to the Special Representative the strict policy adopted by the Sudan regarding recruitment of children. As regards Ugandan children, the Special Representative was informed that the Government was fully cooperating, in full transparency, with the UNICEF representative in Khartoum.

16. The Government of the Sudan states that it will continue to honour its commitments as stipulated in the Convention on the Rights of the Child and any other obligations concerning the protection, safety and welfare of the child.

## III. INFORMATION PROVIDED BY THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL

17. Since his appointment, the Special Representative of the Secretary-General on the impact of armed conflict on children, Mr. Olara Otunnu, has sought to raise awareness of the phenomenon of abduction of children in the context of armed conflict for the purpose of serving armed groups as child soldiers and sex slaves. One of the most severe forms of brutalization of children, this phenomenon has been epitomized by the abduction of an estimated 8,000 Ugandan children, as young as 5 years of age, by the so-called Lord's Resistance Army (LRA) in northern Uganda.

18. During the fifty-second session of the General Assembly, the Special Representative held two meetings in October 1997 with the Minister for Foreign Affairs of the Sudan, Mr. Ali Osman Taha, to discuss, inter alia, the plight of Ugandan children abducted by Ugandan armed groups and who may be held on the territory of the Sudan. The Special Representative expressed his interest in visiting the Sudan to discuss with the Sudanese authorities how the Sudan could use its position and influence to alleviate the plight of abducted children.

19. In October 1997, the Special Representative met with a delegation of Ugandan parliamentarians headed by Ms. Betty Okwir, Deputy Speaker of the Parliament of Uganda. They discussed issues concerning peace in northern Uganda, and in particular the impact of the ongoing armed conflict on generations of children. Along with the issue of abducted children, they discussed the plight of traumatized victims of rape, child-mothers, displaced, maimed or abandoned children.

20. On 10 November 1997, the staff of the Special Representative met with Ms. Angelina Acheng Atyam, Vice-Chairperson of the Concerned Parents' Association, Uganda, who provided a personal account of the fate of thousands of children abducted from northern Uganda by the LRA, including her own daughter Charlotte. The Special Representative, who was away from Headquarters, had a substantive telephone discussion with Ms. Acheng Atyam on the issue.

21. In late November 1997, a 15-year-old boy who had escaped from the LRA sought the protection of UNICEF in the southern Sudanese city of Juba. UNICEF learned subsequently of the existence of another 16 "persons of concern". In March 1998, the Government of the Sudan facilitated the repatriation by UNICEF and UNHCR of 12 Ugandan children between 12 and 17 years of age, two infants and three adults from Juba via Khartoum to Kampala. Prior to this positive and encouraging development, reported by the Deputy Executive Director of UNICEF to the Commission on Human Rights on 2 April 1998 under agenda Item 8, the Special Representative had been in close contact with UNICEF and UNHCR on this matter. He had urged the Government of the Sudan to extend its full cooperation with respect to the tracing and repatriation of Ugandan children who may be on its territory.

22. In April 1998, the Office of the Special Representative undertook a mission in the district of Gulu, northern Uganda. The mission personnel discussed with local administrative, military and medical authorities the impact of recurrent incursions into the Gulu and Kitgum districts by LRA armed groups. Their modus operandi consists of hit-and-run attacks on villages by small groups of rebels to loot, abduct children, kill and often order children to kill family members or to maim individuals. Abducted children are used to carry the booty. Ultimately they are used as combatants and sex slaves.

23. The mission visited two trauma and counselling centres in Gulu. The Gulu Support for Children Organization (GUSCO) had 200 children in residence, on average between 11 and 14 years of age. They had fled their captors, and had surrendered to or been captured by the Ugandan People's Defence Force (UPDF), the Ugandan army. The youngest child met by the mission was 5 years old. The youngest abducted children are usually not seen again as they are not likely to survive the escape and a most dangerous and strenuous four- to seven-day walk without food and water from southern Sudan to northern Uganda. While the children, who seemed to be enjoying the full support of the Gulu community, were apparently not ostracized, it is to be noted that the psycho-social reintegration of girls, as young as 9 years of age, is more difficult in view of the sexual abuse they have suffered and the stigma attached to it. Approximately 85 per cent of girls arrive at the Centre suffering from sexually transmitted diseases.

24. The mission visited the World Vision Trauma and Counselling Centre, which had 195 children in residence. It had received since its establishment a total of 3,870 children. The World Vision Centre receives children without relatives in the vicinity of Gulu. Thus, these children do not enjoy crucial emotional support from their families and immediate communities. A major challenge for the Centre was the identification, tracing and reunification of children with their families.

25. Subsequent to the mission, the office of the Special Representative, in cooperation with the British non-governmental organization Child Advocacy International, identified a prominent psychiatrist ready to volunteer to carry out clinical work at the two trauma centres in Gulu, offer training to social workers and document cases. The fielding of the psychiatrist is being coordinated by the UNICEF Uganda office.

26. During his official visit to the Sudan between 14 and 16 June 1998, the Special Representative raised with the Sudanese authorities in Khartoum and Juba the issue of Ugandan children abducted by Ugandan rebel groups who may be held by those groups on the territory of the Sudan. In particular, he discussed this matter with the First Vice-President of the Sudan, Mr. Ali Osman Taha, the Speaker of Parliament, Mr. Hassan Turabi, the Minister for Foreign Affairs, Mr. Mustafa Osman Ismail, and with the Assistant to the President and Chairman of the Southern States Coordinating Council, Mr. Riek Machar.

27. In view of substantiated reports that some Ugandan rebel groups were operating in and out of Uganda from the territory of the Sudan, the Special Representative urged the Government of the Sudan to undertake to cooperate and to use the influence it may have in the tracing, release from captivity and

repatriation of Ugandan children who may be on its territory. He made a particular appeal for the tracing and release of schoolgirls abducted on 10 October 1996 by the LRA from St. Mary's College at Aboke in northern Uganda. He also reiterated his appreciation to the Government of the Sudan for its cooperation with UNICEF and UNHCR in the repatriation of 14 Ugandan children and 3 adults in March 1998.

28. The Government of the Sudan pledged to assist on humanitarian grounds with ongoing efforts aimed at the tracing and release of children abducted from northern Uganda by Ugandan rebel groups. It indicated, however, that it was not in control of the Sudan-Uganda border area.

29. On 15 June 1998, the Special Representative visited Juba, the capital o the Bahr-el-Ghazal province, where he met in the UNICEF compound with two Ugandan boys who had been used as child soldiers by two Ugandan rebel groups operating out of the territory of the Sudan. The boys expressed the wish to return to their homes in northern Uganda. The Government of the Sudan extended its full cooperation to the Special Representative with a view to effecting the repatriation of the boys. A total of three boys were flown on 19 June 1998 to Kampala via Khartoum by UNICEF and UNHCR. They were officially handed over to the Government of Uganda and reunited with their families in northern Uganda.

30. In an address to the Security Council under the agenda item "Children and armed conflict", the Special Representative highlighted the breakdown of local value systems and the negation of codes of ethics in the conduct of warfare, such as the concept of lapir, "the cleanliness of one's claim", which traditionally governed the rules of war for the Acholi people of northern Uganda. He underlined that the current routine violation of strict injunctions, chief among them the immunity of children, women and the elderly from attack, was destroying the basis for future coexistence.

31. The Special Representative met in New York in March 1998 with Ms. Angelina Acheng Atyam, Vice-Chairperson of the Concerned Parents' Association, Uganda, to discuss the issue of abducted children in northern Uganda. He assured her that the situation of abducted children was at the forefront of his agenda and that he was actively pursuing efforts initiated b the Secretary-General to seek the release of abducted children, including the release of the schoolgirls abducted from St. Mary's College.

32. The Special Representative met on 9 June 1998 with Mr. Michel Sidibe, Representative of UNICEF in Uganda. They discussed actions that could be undertaken to address the issue of abduction of children in northern Uganda, including the psycho-social rehabilitation of children.

33. He also met in London in July 1998 with Mr. Owiny Dolo, the Ugandan Minister of State for Northern Reconstruction, and with Members of Parliament women leaders and the resident district commissioners of the Gulu and Kitgum districts, which are most severely affected by LRA attacks. The impact of th abduction of children on the family and social fabric of entire communities i northern Uganda was at the centre of the discussions.

34. The Special Representative also met in London in August 1998 with Ugandan bishops and other religious leaders to discuss the opportunity for broad-based inter-communal consultations among religious and political leaders, civil society organizations and notables. Such consultations would be aimed at the mapping of a consensual platform conducive to a lasting peace in northern Uganda.

35. He met on 1 September with Mr. Babatunde Thomas, United Nations Resident Coordinator and UNDP Resident Representative for Uganda, to discuss a prospective UNDP project to promote inter- and intra-communal consultations. Such a conference would provide a forum for Ugandan religious leaders, parliamentarians, notables, local political and administrative leaders, non-governmental organizations and associations to discuss the situation in northern Uganda, with a view to formulating a political platform conducive to the pacification of northern Uganda through participatory political processes and socio-economic rehabilitation. The Special Representative advocated that the current plight and future of children should be at the core of such a conference.

36. On 3 July 1998, the Special Representative convened in New York a meeting to review the phenomenon of child abduction in theatres of armed conflict, with a view to promoting concerted action on this alarming modus operandi. The meeting, attended by, inter alia, the former Special Envoy of the Secretary-General for Humanitarian Affairs in the Sudan, the Deputy Executive Director of UNICEF, the Deputy Emergency Relief Coordinator and the Representative of the High Commissioner for Human Rights, reviewed the massive abduction and brutalization of Ugandan children. The meeting concluded that the Special Representative on the impact of armed conflict on children was best suited to serve as the focal point to coordinate efforts to obtain the release of children abducted by armed groups in northern Uganda.

37. The Special Representative has been promoting the concept of subregional meetings aimed at reaching understandings among concerned States and non-State entities on transborder issues. In particular, such an understanding would result in a commitment by States and non-State entities to proscribe the abduction of children. The Special Representative has been discussing the concept with, inter alia, several Governments in the Horn of Africa and the Great Lakes region, the Organization of African Unity, UNICEF and UNHCR. He will pursue his efforts with a view to holding high-level meetings with respect to the Horn of Africa and the Great Lakes region in the course of 1999.

38. The Special Representative met on 30 September 1998 in New York with Mr. Mustafa Osman Ismail, Minister for Foreign Affairs of the Sudan. He reiterated his appeal for the cooperation of the Government of the Sudan with respect to the tracing of Ugandan children presumably held by Ugandan armed groups on the territory of the Sudan.

39. He also informed the Minister for Foreign Affairs of his intention to pay a second visit to the Sudan, including to rebel-controlled areas of the country. Preparations are under way for this mission, which will take place early in 1999.

40. In October 1998, the Special Representative met in Brussels with Mr. Odwong J. Akwero, Member of Parliament of Uganda, and with Ms. Angelina Acheng Atyam, Vice-Chairperson of the Concerned Parents' Association, Uganda. The meeting discussed the draft legislation before the Ugandan Parliament pertaining to an amnesty for rebels with a view to promoting reconciliation and peace, and ways and means of assisting children affected by the situation in northern Uganda. Ms. Acheng Atyam provided an information update regarding the plight of the children of northern Uganda.

41. The Special Representative met again with Ms. Acheng Atyam in New York on 9 December 1998. She appealed through the Special Representative to all protagonists and to the international community to ensure that children were shielded from warfare. She stressed that peace was the only solution.

42. On 10 December 1998, the Secretary-General awarded the United Nations Human Rights Prize to Ms. Acheng Atyam, during a ceremony by the General Assembly to commemorate the fiftieth anniversary of the adoption of the Universal Declaration of Human Rights.

## IV. INFORMATION PROVIDED BY INTERNATIONAL ORGANIZATIONS AND NON-GOVERNMENTAL SOURCES

43. Information about the situation of abduction of children from northern Uganda was received from UNICEF, Office for the Coordination of Humanitarian Affairs of the United Nations, the Integrated Regional Information Network for Central and Eastern Africa (IRIN), the International Committee of the Red Cross (ICRC) and NGOs such as Amnesty International, Human Rights Watch, World Vision and the Quaker United Nations office. A summary of this information follows.

44. Concerns have been expressed over conditions in the Ugandan "protected camps", which have been established to protect children and adult civilians from abduction and forcible recruitment. The conditions in these camps are said to be very bad; they are overcrowded and there is little access to adequate water and food. The camps are reportedly not very well protected and abductions and attacks by the LRA continue. The LRA has repeatedly threatened NGOs and in June 1998 NGOs and ICRC pulled out of Kitgum.

45. UNICEF reported that between November 1997 and April 1998, 14 children and 3 adults escaped from the LRA and contacted UNICEF in the southern Sudanese city of Juba. The abductees included a dozen children between the ages of 12 and 17, including a 16-year-old girl and her baby, an adult woman and her 2-year-old daughter, and two adult men. UNICEF and UNHCR formally sought, and were given, the help of the Governments of the Sudan and Uganda in facilitating the transport of the children for their return to Uganda.

46. In June 1998, five students abducted from Kichwamba Technical College in western Uganda by the ADF were reportedly killed while trying to escape. The same month, 40 girls were abducted from the St. Charles Lwanga College in Kalongo.

47. In November 1998 Uganda Radio reported that schools in six sub-counties of the Kitgum district were closed owing to fears of attacks by the LRA in the area.

48. On 15 December 1998, it was reported that over 80 children freed from the LRA by Government forces were handed over to rehabilitation agencies in Gulu. World Vision reported to IRIN that its counselling centre had received 54 of the children. They will receive psychological and nutritional help before being returned to their communities.

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Fifty-fifth session
Item 13 of the provisional agenda

# RIGHTS OF THE CHILD

## Abduction of children from northern Uganda

## Report of the Secretary-General

## Corrigendum

Paragraph 1, line 3

For commended read condemned

GE.99-12187 (E)

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Item 13 of the provisional agenda

# RIGHTS OF THE CHILD

## Status of the Convention on the Rights of the Child

## Report of the Secretary-General

1. The General Assembly, in its resolution 44/25 of 20 November 1989, adopted the Convention on the Rights of the Child and expressed the hope that it would come into force at an early date. The Convention was opened for signature in New York on 26 January 1990 and, in accordance with article 49 thereof, entered into force on 2 September 1990, on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. In section I of its resolution 1998/76 of 22 April 1998, the Commission on Human Rights welcomed the nearly universal ratification of the Convention and urged once again those States that had not done so to sign and ratify or accede to the Convention as a matter of priority; welcomed the constructive role of the Committee on the Rights of the Child in creating awareness of the principles and provisions of the Convention and in providing recommendations to States parties on its implementation; called upon States parties to withdraw reservations incompatible with the object and purpose of the Convention and consider reviewing other reservations and to accept the amendment which would increase the membership of the Committee from 10 to 18 experts; and decided to encourage the Committee to continue to pay attention to the needs of children requiring special protection in especially difficult circumstances, including children with disabilities. Additionally, the Commission on Human Rights called upon all States to ensure that the rights set forth in the Convention are respected without discrimination of any kind; to ensure that the education of the child shall be carried out in accordance with articles 28 and 29 of the Convention; to ensure that every

child alleged or recognized as having infringed the penal law is treated with dignity in accordance with the principles and relevant provisions of the Convention. It also decided to request the Secretary-General to ensure the provision of appropriate staff and facilities from the United Nations regular budget for the effective and expeditious performance of the functions of the Committee, while noting the temporary support given by the Plan of Action of the United Nations High Commissioner for Human Rights to strengthen the implementation of the Convention based on voluntary contributions which provided human resources to assist the Committee with the increasing workload due to the near-universalization of the Convention, and requested the Office of the High Commissioner to brief Governments regularly on the implementation of the Plan of Action. In section II of the resolution, the Commission called upon all States to take all necessary measures to ensure the full and equal enjoyment by girls of all human rights and fundamental freedoms, and to eliminate all forms of discrimination against girls and the root causes of son preference. The Commission, in section III of the resolution, welcomed the report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography and the adoption and dissemination of the Declaration and Agenda for Action of the World Congress against Commercial Sexual Exploitation of Children, called upon all States to cooperate with and assist the Special Rapporteur and to participate constructively in the negotiations on an optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography with the aim of an early agreement on the text and invited the Committee to offer comments on the draft optional protocol and to consider being represented at the next session of the working group on the question of the draft optional protocol. In section IV of the resolution, the Commission welcomed the appointment for three years of the Special Representative of the Secretary-General on the impact of armed conflict on children, as proposed by the General Assembly in its resolution 51/77 of 12 December 1996, to follow up the practical recommendations contained in the final report of the expert appointed by the Secretary-General on this question (A/51/306 and Add.1), as well as his first report (E/CN.4/1998/119). It called upon States to participate constructively in the negotiations on an optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts with the aim of an early agreement on the text and of the adoption of a higher standard of protection than the present one contained in article 38 of the Convention; it also called upon States, in accordance with the norms of international humanitarian law, to integrate in their military programmes, including those for peacekeeping, instruction on responsibilities towards the civilian population, particualrly women and children. The Commission also called upon relevant United Nations bodies, including the United Nations Voluntary Trust Fund for Assistance in Mine Clearance, to contribute on an ongoing basis to international mine-clearance efforts and urged States to take stronger action to promote gender- and age-appropriate mine-awareness programmes and child-centred rehabilitation, and welcomed increased international efforts in various forums with respect to anti-personnel mines, recognized the positive effect on children of those efforts and, in that regard, took due note of the adoption of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction and its implementation by those States that had become parties, as well as of the amended Protocol II to the Conventional Weapons Convention. The Commission furthermore called upon States to respect international humanitarian law, to

end the use of children as soldiers and to ensure their demobilization, and to implement effective measures for the rehabilitation and the reintegration into society of child soldiers, child victims in cases of armed conflict or foreign occupation, including victims of landmines and all other weapons, and victims of gender-based violence, inter alia through adequate education aned training, and invited the international community to assist in that endeavour. In section V of the resolution the Commission called upon all States to protect refugee and internally displaced children. In section VI of the resolution the Commission welcomed the measures taken by Governments to eliminate the exploitation of child labour, the initiatives to convene international conferences on various forms of child labour, and the efforts by the Committee on the Rights of the Child in the area of child labour; and called upon all States to translate into concrete action their commitment to the progressive and effective elimination of all forms of exploitative child labour and to support the proposed drafting by the International Labour Organization of an instrument aimed at eradicating the most intolerable forms of child labour. In section VII of the resolution the Commission called upon all States to continue actively to seek comprehensive solutions to the problems of children on the street. In section VIII of the resolution, the Commission called upon all States parties to adopt, in accordance with article 23 of the Convention, all necessary measures to ensure the full enjoyment in equal conditions of all human rights and fundamental freedoms by children with disabilities. In section IX of the resolution the Commission requested the Secretary-General to submit to the Commission at its fifty-fifth session a report on the status of the Convention on the Rights of the Child.

3. As at 5 December 1998 the Convention had received 140 signatures which were followed by ratification. In addition, 45 States had acceded to the Convention and 6 had succeeded to it, bringing the total of ratifications and accessions to the Convention to 191. A list of States that have ratified or acceded to the Convention, and the dates of their signature, ratification or accession, appears in the annex to the present report.

4. The Committee on the Rights of the Child held its seventeenth session from 5 to 23 January 1998 at the United Nations Office at Geneva. At that session the Committee considered reports submitted by three States parties to the Convention. In addition, the Committee reviewed its cooperation with United Nations bodies in connection with the consideration of two draft optional protocols to the Convention. The Committee adopted a report on its seventeenth session (CRC/C/73) as well as its biennial report to the General Assembly (A/53/41).

5. The Committee on the Rights of the Child held its eighteenth session from 21 September to 9 October 1998 at the United Nations Office at Geneva. During that session, the Committee considered reports submitted by five States parties to the Convention. One day was devoted to a general discussion on the topic "Children living in a world with HIV/AIDS". The thematic discussion was organized around three main topics: non-discrimination, prevention and care. The Committee adopted the report of the session (CRC/C/80).

6. The twentieth session of the Committee on the Rights of the Child will be held from 11 to 29 January 1999 at Geneva.

7. The seventh Meeting of the States parties to the Convention will be convened by the Secretary-General at United Nations Headquarters on 16 February 1999 for the purpose of electing five members of the Committee on the Rights of the Child to replace those whose terms were due to expire on 28 February 1999.

Annex

STATES WHICH HAVE RATIFIED OR ACCEDED TO THE CONVENTION ON THE RIGHTS OF THE CHILD AS AT 30 NOVEMBER 1998 (191)

| States | Date of signature | Date of receipt of instrument of ratification/ accession a/ | Date of entry into force |
|---|---|---|---|
| Afghanistan | 27 September 1990 | 28 March 1994 | 27 April 1994 |
| Albania | 26 January 1990 | 27 February 1992 | 28 March 1992 |
| Algeria | 26 January 1990 | 16 April 1993 | 16 May 1993 |
| Andorra | 2 October 1995 | 2 January 1996 | 1 February 1996 |
| Angola | 14 February 1990 | 5 December 1990 | 4 January 1991 |
| Antigua and Barbuda | 12 March 1991 | 5 October 1993 | 4 November 1993 |
| Argentina | 29 June 1990 | 4 December 1990 | 3 January 1991 |
| Armenia | | 23 June 1993 a/ | 22 July 1993 |
| Australia | 22 August 1990 | 17 December 1990 | 16 January 1991 |
| Austria | 26 January 1990 | 6 August 1992 | 5 September 1992 |
| Azerbaijan | | 13 August 1992 a/ | 12 September 1992 |
| Bahamas | 30 October 1990 | 20 February 1991 | 22 March 1991 |
| Bahrain | | 13 February 1992 a/ | 14 March 1992 |
| Bangladesh | 26 January 1990 | 3 August 1990 | 2 September 1990 |
| Barbados | 19 April 1990 | 9 October 1990 | 8 November 1990 |
| Belarus | 26 January 1990 | 1 October 1990 | 31 October 1990 |
| Belgium | 26 January 1990 | 16 December 1991 | 15 January 1992 |
| Belize | 2 March 1990 | 2 May 1990 | 2 September 1990 |
| Benin | 25 April 1990 | 3 August 1990 | 2 September 1990 |
| Bhutan | 4 June 1990 | 1 August 1990 | 2 September 1990 |
| Bolivia | 8 March 1990 | 26 June 1990 | 2 September 1990 |
| Bosnia and Herzegovina b/ | | | 6 March 1992 |
| Botswana | | 14 March 1995 a/ | 13 April 1995 |
| Brazil | 26 January 1990 | 24 September 1990 | 24 October 1990 |
| Brunei Darussalam | | 27 December 1995 a/ | 26 January 1996 |
| Bulgaria | 31 May 1990 | 3 June 1991 | 3 July 1991 |
| Burkina Faso | 26 January 1990 | 31 August 1990 | 30 September 1990 |
| Burundi | 8 May 1990 | 19 October 1990 | 18 November 1990 |
| Cambodia | 22 September 1992 | 15 October 1992 | 14 November 1992 |
| Cameroon | 25 September 1990 | 11 January 1993 | 10 February 1993 |
| Canada | 28 May 1990 | 13 December 1991 | 12 January 1992 |
| Cape Verde | | 4 June 1992 a/ | 4 July 1992 |
| Central African Republic | 30 July 1990 | 23 April 1992 | 23 May 1992 |
| Chad | 30 September 1990 | 2 October 1990 | 1 November 1990 |
| Chile | 26 January 1990 | 13 August 1990 | 12 September 1990 |

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|---|---|---|---|
| China | 29 August 1990 | 2 March 1992 | 1 April 1992 |
| Colombia | 26 January 1990 | 28 January 1991 | 27 February 1991 |
| Comoros | 30 September 1990 | 22 June 1993 | 21 July 1993 |
| Congo | | 14 October 1993 a/ | 13 November 1993 |
| Cook Islands | | 6 June 1997 a/ | 6 July 1997 |
| Costa Rica | 26 January 1990 | 21 August 1990 | 20 September 1990 |
| Côte d'Ivoire | 26 January 1990 | 4 February 1991 | 6 March 1991 |
| Croatia b/ | | | 8 October 1991 |
| Cuba | 26 January 1990 | 21 August 1991 | 20 September 1991 |
| Cyprus | 5 October 1990 | 7 February 1991 | 9 March 1991 |
| Czech Republic b/ | | | 1 January 1993 |
| Democratic People's Republic of Korea | 23 August 1990 | 21 September 1990 | 21 October 1990 |
| Democratic Republic of the Congo | 20 March 1990 | 27 September 1990 | 27 October 1990 |
| Denmark | 26 January 1990 | 19 July 1991 | 18 August 1991 |
| Djibouti | 30 September 1990 | 6 December 1990 | 5 January 1991 |
| Dominica | 26 January 1990 | 13 March 1991 | 12 April 1991 |
| Dominican Republic | 8 August 1990 | 11 June 1991 | 11 July 1991 |
| Ecuador | 26 January 1990 | 23 March 1990 | 2 September 1990 |
| Egypt | 5 February 1990 | 6 July 1990 | 2 September 1990 |
| El Salvador | 26 January 1990 | 10 July 1990 | 2 September 1990 |
| Equatorial Guinea | | 15 June 1992 a/ | 15 July 1992 |
| Eritrea | 20 December 1993 | 3 August 1994 | 2 September 1994 |
| Estonia | | 21 October 1991 a/ | 20 November 1991 |
| Ethiopia | | 14 May 1991 a/ | 13 June 1991 |
| Fiji | 2 July 1993 | 13 August 1993 | 12 September 1993 |
| Finland | 26 January 1990 | 20 June 1991 | 20 July 1991 |
| France | 26 January 1990 | 7 August 1990 | 6 September 1990 |
| Gabon | 26 January 1990 | 9 February 1994 | 11 March 1994 |
| Gambia | 5 February 1990 | 8 August 1990 | 7 September 1990 |
| Germany | 26 January 1990 | 6 March 1992 | 5 April 1992 |
| Georgia | | 2 June 1994 a/ | 2 July 1994 |
| Ghana | 29 January 1990 | 5 February 1990 | 2 September 1990 |
| Greece | 26 January 1990 | 11 May 1993 | 10 June 1993 |
| Grenada | 21 February 1990 | 5 November 1990 | 5 December 1990 |
| Guatemala | 26 January 1990 | 6 June 1990 | 2 September 1990 |
| Guinea | | 13 July 1990 a/ | 2 September 1990 |
| Guinea-Bissau | 26 January 1990 | 20 August 1990 | 19 September 1990 |
| Guyana | 30 September 1990 | 14 January 1991 | 13 February 1991 |
| Haiti | 20 January 1990 | 8 June 1995 | 8 July 1995 |
| Holy See | 20 April 1990 | 20 April 1990 | 2 September 1990 |
| Honduras | 31 May 1990 | 10 August 1990 | 9 September 1990 |
| Hungary | 14 March 1990 | 7 October 1991 | 6 November 1991 |
| Iceland | 26 January 1990 | 28 October 1992 | 27 November 1992 |
| India | | 11 December 1992 a/ | 11 January 1993 |
| Indonesia | 26 January 1990 | 5 September 1990 | 5 October 1990 |

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| ran (Islamic Rep.of) | 5 September 1991 | 13 July 1994 | 12 August 1994 |
| raq | | 15 June 1994 a/ | 15 July 1994 |
| reland | 30 September 1990 | 28 September 1992 | 28 October 1992 |
| srael | 3 July 1990 | 3 October 1991 | 2 November 1991 |
| taly | 26 January 1990 | 5 September 1991 | 5 October 1991 |
| amaica | 26 January 1990 | 14 May 1991 | 13 June 1991 |
| apan | 21 September 1990 | 22 April 1994 | 22 May 1994 |
| ordan | 29 August 1990 | 24 May 1991 | 23 June 1991 |
| azakhstan | 16 February 1994 | 12 August 1994 | 11 September 1994 |
| enya | 26 January 1990 | 30 July 1990 | 2 September 1990 |
| iribati | | 11 December 1995 a/ | 10 January 1996 |
| uwait | 7 June 1990 | 21 October 1991 | 20 November 1991 |
| yrgyzstan | | 7 October 1994 a/ | 6 November 1994 |
| ao People's Democratic Republic | | 8 May 1991 a/ | 7 June 1991 |
| atvia | | 14 April 1992 a/ | 14 May 1992 |
| ebanon | 26 January 1990 | 14 May 1991 | 13 June 1991 |
| esotho | 21 August 1990 | 10 March 1992 | 9 April 1992 |
| iberia | 26 April 1990 | 4 June 1993 | 4 July 1993 |
| ibyan Arab Jamahiriya | | 15 April 1993 a/ | 15 May 1993 |
| iechtenstein | 30 September 1990 | 22 September 1995 | 21 January 1996 |
| ithuania | | 31 January 1992 a/ | 1 March 1992 |
| uxembourg | 21 March 1990 | 7 March 1994 | 6 April 1994 |
| adagascar | 19 April 1990 | 19 March 1991 | 18 April 1991 |
| alawi | | 2 January 1991 a/ | 1 February 1991 |
| alaysia | | 17 February 1995 a/ | 19 March 1995 |
| aldives | 21 August 1990 | 11 February 1991 | 13 March 1991 |
| ali | 26 January 1990 | 20 September 1990 | 20 October 1990 |
| alta | 26 January 1990 | 30 September 1990 | 30 October 1990 |
| arshall Islands | 14 April 1993 | 4 October 1993 | 3 November 1993 |
| auritania | 26 January 1990 | 16 May 1991 | 15 June 1991 |
| auritius | | 26 July 1990 a/ | 2 September 1990 |
| exico | 26 January 1990 | 21 September 1990 | 21 October 1990 |
| icronesia (Fed. States of) | | 5 May 1993 a/ | 4 June 1993 |
| onaco | | 21 June 1993 a/ | 21 July 1993 |
| ongolia | 26 January 1990 | 5 July 1990 | 2 September 1990 |
| orocco | 26 January 1990 | 21 June 1993 | 21 July 1993 |
| ozambique | 30 September 1990 | 26 April 1994 | 26 May 1994 |
| yanmar | | 15 July 1991 a/ | 14 August 1991 |
| amibia | 26 September 1990 | 30 September 1990 | 30 October 1990 |
| auru | | 27 July 1994 a/ | 26 August 1994 |

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| Nepal | 26 January 1990 | 14 September 1990 | 14 October 1990 |
| Netherlands | 26 January 1990 | 6 February 1995 | 7 March 1995 |
| New Zealand | 1 October 1990 | 6 April 1993 | 6 May 1993 |
| Nicaragua | 6 February 1990 | 5 October 1990 | 4 November 1990 |
| Niger | 26 January 1990 | 30 September 1990 | 30 October 1990 |
| Nigeria | 26 January 1990 | 19 April 1991 | 19 May 1991 |
| Niue | | 20 December 1995 a/ | 14 January 1996 |
| Norway | 26 January 1990 | 8 January 1991 | 7 February 1991 |
| Oman | | 9 December 1996 a/ | 8 January 1997 |
| Pakistan | 20 September 1990 | 12 November 1990 | 12 December 1990 |
| Palau | | 4 August 1995 a/ | 3 September 1995 |
| Panama | 26 January 1990 | 12 December 1990 | 11 January 1991 |
| Papua New Guinea | 30 September 1990 | 1 March 1993 | 31 March 1993 |
| Paraguay | 4 April 1990 | 25 September 1990 | 25 October 1990 |
| Peru | 26 January 1990 | 4 September 1990 | 4 October 1990 |
| Philippines | 26 January 1990 | 21 August 1990 | 20 September 1990 |
| Poland | 26 January 1990 | 7 June 1991 | 7 July 1991 |
| Portugal | 26 January 1990 | 21 September 1990 | 21 October 1990 |
| Qatar | 8 December 1992 | 3 April 1995 | 3 May 1995 |
| Republic of Korea | 25 September 1990 | 20 November 1991 | 20 December 1991 |
| Republic of Moldova | | 26 January 1993 a/ | 25 February 1993 |
| Romania | 26 January 1990 | 28 September 1990 | 28 October 1990 |
| Russian Federation | 26 January 1990 | 16 August 1990 | 15 September 1990 |
| Rwanda | 26 January 1990 | 24 January 1991 | 23 February 1991 |
| Saint Kitts and Nevis | 26 January 1990 | 24 July 1990 | 2 September 1990 |
| Saint Lucia | | 16 June 1993 a/ | 16 July 1993 |
| Saint Vincent and the Grenadines | 20 September 1993 | 26 October 1993 | 25 November 1993 |
| Samoa | 30 September 1990 | 29 November 1994 | 29 December 1994 |
| Saudi Arabia | | 26 January 1996 a/ | 25 February 1996 |
| San Marino | | 25 November 1991 a/ | 25 December 1991 |
| Sao Tome and Principe | | 14 May 1991 a/ | 13 June 1991 |
| Senegal | 26 January 1990 | 31 July 1990 | 2 September 1990 |
| Seychelles | | 7 September 1990 a/ | 7 October 1990 |
| Sierra Leone | 13 February 1990 | 18 June 1990 | 2 September 1990 |
| Singapore | | 5 October 1995 a/ | 4 November 1995 |
| Slovakia b/ | | | 1 January 1993 |
| Slovenia b/ | | | 25 June 1991 |
| Solomon Islands | | 10 April 1995 a/ | 10 May 1995 |
| South Africa | 29 January 1993 | 16 June 1995 | 16 July 1995 |
| Spain | 26 January 1990 | 6 December 1990 | 5 January 1991 |
| Sri Lanka | 26 January 1990 | 12 July 1991 | 11 August 1991 |
| Sudan | 24 July 1990 | 3 August 1990 | 2 September 1990 |
| Surinam | 26 January 1990 | 1 March 1993 | 31 March 1993 |
| Swaziland | 22 August 1990 | 7 September 1995 | 6 October 1995 |
| Sweden | 26 January 1990 | 29 June 1990 | 2 September 1990 |

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|---|---|---|---|
| Switzerland | 1 May 1991 | 24 February 1997 | 26 March 1997 |
| Syrian Arab Republic | 18 September 1990 | 15 July 1993 | 14 August 1993 |
| Tajikistan | | 26 October 1993 a/ | 25 November 1993 |
| Thailand | | 27 March 1992 a/ | 26 April 1992 |
| The former Yugoslav Republic of Macedonia b/ | | | 17 September 1991 |
| Togo | 26 January 1990 | 1 August 1990 | 2 September 1990 |
| Tonga | | 6 November 1995 a/ | 6 December 1995 |
| Trinidad and Tobago | 30 September 1990 | 5 December 1991 | 4 January 1992 |
| Tunisia | 26 February 1990 | 30 January 1992 | 29 February 1992 |
| Turkey | 14 September 1990 | 4 April 1995 | 4 May 1995 |
| Turkmenistan | | 20 September 1993 a/ | 19 October 1993 |
| Tuvalu | | 22 September 1995 a/ | 22 October 1995 |
| Uganda | 17 August 1990 | 17 August 1990 | 16 September 1990 |
| Ukraine | 21 February 1991 | 28 August 1991 | 27 September 1991 |
| United Arab Emirates | | 3 January 1997 a/ | 2 February 1997 |
| United Kingdom of Great Britain and Northern Ireland | 19 April 1990 | 16 December 1991 | 15 January 1992 |
| United Republic of Tanzania | 1 June 1990 | 10 June 1991 | 10 July 1991 |
| Uruguay | 26 January 1990 | 20 November 1990 | 20 December 1990 |
| Uzbekistan | | 29 June 1994 a/ | 29 July 1994 |
| Vanuatu | 30 September 1990 | 7 July 1993 | 6 August 1993 |
| Venezuela | 26 January 1990 | 13 September 1990 | 13 October 1990 |
| Viet Nam | 26 January 1990 | 28 February 1990 | 2 September 1990 |
| Yemen | 13 February 1990 | 1 May 1991 | 31 May 1991 |
| Yugoslavia | 26 January 1990 | 3 January 1991 | 2 February 1991 |
| Zambia | 30 September 1990 | 5 December 1991 | 5 January 1992 |
| Zimbabwe | 8 March 1990 | 11 September 1990 | 11 October 1990 |

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a/ Accession.

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Fifty-fifth session
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# RIGHTS OF THE CHILD

## Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Ofelia Calcetas-Santos

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GE.99-10740 (E)

## Introduction

1. At its fifty-fourth session, the Commission on Human Rights, in its resolution 1998/76 of 22 April 1998, welcomed the report of the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/1998/101 and Add.1 and 2). The Special Rapporteur was requested to submit an interim report to the General Assembly at its fifty-third session (A/53/311, annex) and a report to the Commission on Human Rights at its fifty-fifth session.

2. In the same resolution, the Commission on Human Rights requested the Secretary-General to provide the Special Rapporteur with all necessary assistance and urged all relevant parts of the United Nations system to provide the Special Rapporteur with comprehensive reporting to make the full discharge of her mandate possible. The Commission also invited the Special Rapporteur to continue to cooperate closely with other relevant United Nations organs and bodies and to convey her findings to the Commission.

## I. WORKING METHODS AND ACTIVITIES

### A. Working methods

3. The mandate of the Special Rapporteur comprises three elements - sale, prostitution, and pornography, each one of which covers very wide areas of concern. In her past reports the Special Rapporteur identified and analysed the respective roles of three catalysts which she felt were indispensable partners in the fight for the protection of children, namely the justice system, education, and media. She gave extensive recommendations on how these three catalysts could be most effective not only in responding to children who are actually entrenched in situations of abuse but, even more importantly, in the prevention of such abuses.

4. In recognition of the urgent need to address the recent global escalation of the involvement of children in the field of commercial sex, the Special Rapporteur chose to concentrate first on the issues of prostitution and pornography. She studied, inter alia, the issues of definition, causation, international and national developments and their effects on children, and made recommendations.

5. The Special Rapporteur will now focus upon the third element of her mandate, the sale of children. The increased international attention being given to the issues of sexual exploitation has heightened awareness of the extent to which children in virtually all areas of the world are being sold both for sexual exploitation and for other purposes. It also brought to light the fact that in most cases where there is sale there is also trafficking involved. It is for this reason that this report includes perspectives both on sale and on trafficking.

6. International law concerning the trafficking of human beings has been evolving throughout the twentieth century, but the recent widespread reports of women and children being trafficked for prostitution have demonstrated the inadequacy of the current legal regime and response mechanisms which purport to address such atrocities.

7. In order to obtain a more comparative overview of developments relating to the sale and trafficking of children, the Special Rapporteur, in July 1998, sent a circular to all Governments, relevant United Nations bodies and agencies, and intergovernmental and non-governmental organizations, soliciting information to be used in her reports to the General Assembly and the Commission on Human Rights, on the following:

(a) Identified paths within the country through which children are trafficked: the origin of the children and their final destination;

(b) Identified international trafficking routes which may originate in, pass through, or terminate in the country in question;

(c) Profiles of the children involved and of those involved in the trafficking, such as their nationalities, ages, and information concerning their background circumstances;

(d) The purposes for which children are trafficked - i.e. for sexual exploitation, illegal adoption, for use in labour or sports, for use as organ donors, or any other purpose;

(e) Whether the children are part of a general trafficking path along with commodities, such as drugs or firearms;

(f) The provisions that are made in terms of prevention/extrication/repatriation/rehabilitation of the child victims after trafficking.

8. By December 1998, replies had been received from the Governments of Austria, Belgium, Chile, China, Colombia, Croatia, Cuba, Cyprus, the Czech Republic, Denmark, France, Finland, Germany, India, Ireland, Jamaica, Maldives, the Marshall Islands, San Marino, Slovakia, Spain, Switzerland, the Syrian Arab Republic, Trinidad and Tobago, Turkey and the United Kingdom of Great Britain and Northern Ireland. The International Organization for Migration (IOM) and the International Labour Organization (ILO) also provided information to the Special Rapporteur. The following non-governmental organizations provided the Special Rapporteur with information: End Child Prostitution, Child Pornography and Trafficking (ECPAT), Defence for Children International (DCI), World Vision International, World Young Women's Christian Association (WYWCA), Christian Solidarity International (CSI), Rädda Barna, Inter-African Committee (AC) on Traditional Practices, as well as the NGO Group for the Convention on the Rights of the Child/Sub-Group on Sexual Exploitation of Children (Switzerland). The information provided in these replies is included in the present report.

## B. Activities

9. Since the fifty-fourth session of the Commission on Human Rights, the Special Rapporteur has carried out two field missions. In September 1998, the Special Rapporteur visited the Lao People's Democratic Republic (Vientiane and Savannakhet) at the invitation of the Government. The mission report is contained in document E/CN.4/1999/71/Add.1. In December 1998, the Special Rapporteur visited Belgium (Brussels) and the Netherlands (The Hague and

Amsterdam) at the invitation of the Governments. A summary of the mission is contained in this document, and a full report of the mission will be issued at a later date.

10. In April 1998 the Special Rapporteur was invited to address the Commission on Crime Prevention and Criminal Justice at its seventh session, in Vienna. She used the opportunity to raise her fears that while issues pertaining to juvenile justice are still high on the agenda of criminal justice concerns generally, similar attention has not yet been given to the child victim who is often extremely vulnerable and at risk of multiple victimization, from the time of reporting abuse up to, and even beyond, the time of sentencing of the offenders.

11. In September 1998, the Special Rapporteur served as co-rapporteur at the Conference on Commercial Sexual Exploitation of Children in the Baltic Sea Area, held in Tallinn, Estonia, which was a regional follow-up to the World Congress against Commercial Sexual Exploitation of Children held in Stockholm, and an initial step for cooperation in the region, where trafficking is a serious issue. The purposes of the Conference were to raise awareness among decision makers about commercial sexual exploitation of children, to create conditions for an exchange of experiences and to establish networks of decision makers and experts in the regions. The main themes of the Conference were: the role of legislation; the importance of education and training of relevant groups of professionals; and the importance of cooperation between authorities, experts and non-governmental organizations.

12. In October 1998, the Special Rapporteur addressed the Second National Conference on Children, Young People and Domestic Violence in Brisbane, Australia. The Conference was organized by the Domestic Violence Resource Centre, and brought people together from across Australia and abroad to explore strategies for responding effectively to the needs of children and young people affected by domestic violence. One of the main challenges presented by the Conference was the need for effective collaboration between the domestic violence, child protection, health, education, legal and welfare sectors in providing a comprehensive and workable response to the needs of children thus affected.

13. The Special Rapporteur addressed the Third Asia-Europe Child Welfare Experts' Meeting in London on 6-8 October which concentrated on the exchange of good practice models from Asia and Europe in the implementation of the Plan of Action of the World Congress against Commercial Sexual Exploitation of Children. Experts discussed the methodologies and principles underlying good practice in programmes to protect children, and considered the relevance and applicability of these principles and methodologies in their own respective settings. The following proposals were recommended for inclusion in the Plan of Action:

(a) The establishment of an Asia-Europe Meeting (ASEM) Resource Centre on Legislation for the Asia-Europe area, which would provide, among other things, European and Asian legislation to protect children, information on complementary activities under way, and details of contacts in the ASEM countries engaged in programmes to protect children;

(b) The strengthening of linkages between Governments in the prevention of cross-border sexual crimes involving children and the coordination of international action to prosecute child sex offenders;

(c) Continuation of search and exchange of good practice models, including possible model codes of conduct for sectors involved with child exploitation cases.

14. The Special Rapporteur is very appreciative of such forums which provide for the exchange of initiatives found to have been successful in addressing the various concerns of children, and considers this a step forward in the common search for solutions.

15. In October 1998, after presenting her report to the General Assembly, the Special Rapporteur was invited to a round table discussion with the member States of the European Union, where there was a lively discussion not only on the concerns of the mandate but also on exploring possible means by which to strengthen the mechanism.

16. On 27 November 1998, the Special Rapporteur was again invited by the European Union to a meeting in Brussels. As at the New York meeting, there was a general discussion on the mandate and resources available to the Special Rapporteur, but the main purpose of the meeting was to discuss ways and means of expediting the finalization of the draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

## II. INTERNATIONAL DEVELOPMENTS RELATING TO SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

17. In Denmark, concerns over the rapid spread of the use of the Internet to disseminate child pornography has resulted in the introduction of several new measures. In 1997, the Ministry of Justice appointed a Committee on Economic Crime and Computer Crime, mandated with the task of assessing all manner of crimes related to Information Technology and to assess the need for a revision of certain sections of the Criminal Code in the light of Internet crimes. In 1998, the National Commissioner of Police established a home page on the Internet where people can report information on suspected distribution of child pornography through the Internet directly to the police.

18. In France, it has been reported that in December 1998, 55 people were detained and 3,000 child pornography videos were seized in a nationwide sweep, when some 130 police investigators working in 34 regions, broke a paedophile network. Half of those detained were placed under formal investigation for receiving videos of child pornography.

19. In Germany, the Federal Government has drawn up a national action plan to combat sex tourism, particularly in connection with child prostitution. Special emphasis is placed on preventative measures, including broad-based information and mobilization campaigns in order to raise public awareness and training programmes in cooperation with the tourism industry.

20. The Special Rapporteur remains concerned about the situation of several thousand female ritual slaves known as "Tro Kosi" in south-eastern Ghana. These females are given by their families to work as slaves in religious shrines as a way of appeasing the gods for crimes supposedly committed by relatives. The girls are allegedly sexually exploited by the priest to whom each is bonded. In July 1998 the Special Rapporteur wrote to the Government of Ghana to communicate her concern and to urge the Government to conduct a thorough investigation into the situation and ensure the immediate release of all children and young women who are enslaved in this way, and she would again urge the Government to respond to her request to effectively criminalize and put an end to the Trokosi tradition, and provide her with the assurance that such measures have been taken.

21. The dissemination of child pornography over the Internet, although a global phenomenon, is reportedly becoming particularly prolific over the web pages, bulletin boards and news servers in Japan. The Special Rapporteur has received information alleging that images of children, sometimes as young as 8 or 9 years old, depicting their rape, torture, and even murder can be downloaded easily by anyone with basic knowledge of the Internet. In July 1998, the Special Rapporteur wrote to the Government of Japan and asked it to take measures to guarantee the physical and psychological integrity of all children who have access to the Internet, or whose images are portrayed thereon, and to take measures to remove such images from computer networks and news servers. The Special Rapporteur would urge the Government of Japan to respond to her letter at the earliest possible opportunity and assure her that the matter is receiving serious attention.

22. Trinidad and Tobago has reported that one facet of its problem with child sex tourism - foreigners visiting a country (solely or inter alia) for the purpose of having sex with children - is the phenomenon of "beach boys" - males as young as 14 who are seen escorting female tourists on the beaches. There is growing concern that sexual activity among children of primary school age has been heightened by the presence of tourists, as children frequenting the beaches after school and during the vacation periods are exposed to varying degrees of sexual activity. The Special Rapporteur welcomes the initiative of the Ministry of Labour to embark on a study of child labour in 1999, the findings of which are expected to form future policies and programmes for the protection of children who may be in danger of victimization and involvement in prostitution, pornography, and at risk of sale. The Ministry is keen to raise the currently very low level of public awareness of commercial sexual exploitation of children as a human rights issue as well as the low priority given to such activities by the police in view of the difficulties of inadequate resources and their preoccupation with what is considered more serious criminal activity.

23. In the United Kingdom, British-led "Operation Cathedral" in September 1998 smashed a paedophile network called "wonderland" operating over the Internet, and thought to be the largest and most dangerous of its kind. The police operation involved raids on 100 suspected members in three continents, and coordinated raids were carried out in homes in Britain, Australia, Austria, Belgium, Finland, France, Germany, Italy, Norway, Portugal, Sweden, and the United States. One investigator reported that in

order to gain membership of "wonderland" individuals had to demonstrate that they had at least 10,000 images of child pornography, and that one Italian member had around 180,000 images.

## III. SPECIAL FOCUS ON SALE AND TRAFFICKING OF CHILDREN

### A. International legal framework

24. Throughout the twentieth century, a succession of treaties have been adopted at the international level to combat trafficking and related offences, such as slavery, forced labour, and the creation and dissemination of pornography. These statutes have concentrated most notably on trafficking of women and children for the purposes of prostitution.

25. The 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others consolidated four previous treaties and obliges States parties to punish "any person who, to gratify the passions of another, procures, entices or leads away another person for purposes of prostitution" or "exploits the prostitution of another person, even with the consent of that person" (art. 1). Under the Convention such offences are to be regarded as extraditable or punishable by the courts of the home State of the offender, where he has returned after the commission of the offence. The Convention sets out procedures for combating international trafficking in persons (especially women and children) for the purposes of prostitution.

26. The adoption of the Convention on the Rights of the Child marked a significant evolution in international law. It contains important safeguards against illegal adoption and transfer of children from their parents. States parties to the Convention undertake to ensure that a child shall not be separated from his or her parents against their will, except where such a separation is necessary for the best interests of the child (arts. 9 and 10). Articles 20 and 21 ensure that, in the case of a child who does not reside with his parents, it is the best interests of the child which remain paramount, with due regard paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background. Article 21 further provides that international adoption must not involve "improper financial gain".

27. Article 11 obliges States to take measures to combat the illicit transfer and non-return of children abroad through the promotion of bilateral and multilateral agreements and, more explicitly, article 35 calls upon States to take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

28. The Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993 was approved on 29 May 1993 by the Hague Conference on Private International Law, and entered into force on 1 May 1995. It is the most serious attempt to address issues of commercialism and malpractice attendant upon intercourtry adoptions as it prohibits improper financial gain from intercountry adoption, specifying that only costs and expenses, including reasonable professional fees, may be charged or paid.

## B. Definitions

### 1. Sale of children

29. In order to gain a clearer perception of the meaning of "sale" in its commercial application, it may be useful to take a look at some definitions of "sale" in general. Black's Law Dictionary 1/ defines it as "a contract between two parties, called, respectively, the 'seller' (or vendor) and the 'buyer' (or purchaser), by which the former, in consideration of the payment or promise of payment of a certain price in money, transfers to the latter the title and the possession of property".

30. The Oxford English Dictionary defines "sale" as "the transfer by common consent of the ownership of a thing or an interest in land, or in incorporeal property, from one person to another in exchange for a price in money".

31. No consensus currently exists with respect to the sale of children. The traditional concept of sale as exemplified above is that it pertains only to property - real, personal or incorporeal - and that the consideration is always price in money. It is difficult to have a definition of "sale of children" since children are not, and should not be, legally and/or morally, the objects of trade or commerce. The reality of such sales, however, proves the need for a definition.

32. Mr. Vitit Muntarbhorn, the first Special Rapporteur on the mandate, defined "sale of children" as "the transfer of a child from one party (including biological parents, guardians and institutions) to another, for whatever purpose, in exchange for financial or other reward or compensation" (E/CN.4/1994/84, para. 31).

33. The incumbent Special Rapporteur, in her first report to the General Assembly (A/50/456, annex), defined "sale of children" as "the transfer of parental authority over and/or physical custody of a child to another on a more or less permanent basis in exchange for financial or other reward or consideration" (para. 18). This definition was adopted by her in order to exclude transactions that are strictly on a temporary basis, as when a child is "rented" out, in order to obviate confusion as to whether the transaction constitutes sale or pimping, for example.

34. The confusion created by the lack of a clear definition as to the elements that constitute the "sale" of a child has not helped the members of the working group on the draft optional protocol to the Convention on the Rights of the Child in dealing with the sale of children, child prostitution and child pornography. One position taken by the negotiators is that a "sale" must be for the purpose of sexual exploitation; the opposing view is that it is dangerous to limit the definition of the term in that way.

### 2. Trafficking of persons

35. Black's Law Dictionary defines traffic in general as "commerce; trade; sale or exchange of merchandise, bills, money, and the like. The passing or exchange of goods or commodities from one person to another for an equivalent in goods or money. The subjects of transportation on a route, as persons or

goods; the passing to and fro of persons, animals, vehicles, or vessels, along a route of transportation, as along a street, highways, etc." It also defines "trafficking" as "trading or dealing in certain goods and commonly used in connection with illegal narcotic sales".

36. There is as yet no internationally recognized definition of "trafficking in persons". The preamble to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others ("Whereas prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community, ...") assimilates trafficking with prostitution. The Convention does not contain any real definition of trafficking; however, it defines the trafficker under article 1 (see paragraph 27 above). Recently, however, "trafficking" has been expanded to refer not only to sexual exploitation but also to a wider range of offences.

37. Thus, the General Assembly, in resolution 49/166, defined "trafficking of persons" as the "illicit and clandestine movement of persons across national and international borders, largely from developing countries and some countries with economies in transition, with the end goal of forcing women and girl children into sexually or economically oppressive and exploitative situations for profit of recruiters, traffickers and crime syndicates, as well as other illegal activities related to trafficking, such as forced domestic labour, false marriages, clandestine employment, and false adoption".

38. At the World Congress Against Commercial Sexual Exploitation of Children, "trafficking" was taken to refer to the illegal moving and selling of human beings across countries and continents in exchange for financial or other compensation.

39. The Global Alliance Against the Trafficking of Women (GAATW), on the other hand, defines "trafficking" as "the recruitment and transportation of (a) person(s) within and across national borders, by means of violence or threat of violence, abuse of actual or perceived authority arising from a relationship, or deception, in order to subject them to the actual and unlawful power of (an)other person(s)".

40. Another useful definition is that advanced by the Netherlands Advisory Committee on Human Rights and Foreign Policy, as follows: "The traffic in person could be defined as transporting a person from one place to another in order to subject him or her to the actual and unlawful power of other persons by means of using violence or the threat of violence or by using a position of authority arising from a relationship or by misleading the other person."

41. For IOM, "trafficking in migrants", which is the illicit transporting of migrants or trade in them, can be said to exist if the following conditions are met: an international border is crossed; an intermediary - the trafficker(s) - is (are) involved in the movement of the migrants; and entry and/or stay in the country of destination is illegal. The migrant may completely avoid contact with authorities during border crossing, present either fraudulent documents or genuine documents which have been altered, or

misrepresent his or her intentions regarding, for example, intended length of stay or economic activity; and the trafficker profits from such activities in terms of economic or other personal gain. 2/

42. The United States Government defines trafficking in human beings, especially women and children, to consist of all acts involving the recruitment, transport, harbouring or sale of persons within national or across borders, typically by deception, coercion or force, and for the purposes of placing persons in situations of forced sexual exploitation or coerced labour. 3/

43. The Conference of Ministers on the Prevention of Illegal Migration held in the Context of the Budapest Process in Prague (14-15 October 1997) recommends that a common understanding of the term "trafficking" should include activities intended deliberately to facilitate the border crossing or residence of an alien in the territory of the State, contrary to the rules and conditions applicable in such a State.

44. The Transnational Training Seminar on Trafficking in Women, held in Budapest from 20 to 24 June 1998, promulgated the following definition: "Trafficking consists of all acts involved in the recruitment or transportation of persons within or across borders, involving deception, coercion or force, debt bondage or fraud, for the purpose of placing persons in situations of abuse or exploitation, such as forced prostitution, slavery-like practices, battering or extreme cruelty, sweatshop labour or exploitative domestic servitude."

45. The Special Rapporteur considers this last definition to be the most workable, although she expresses reservations as to whether trafficking always places the victim in a worse position than that held previously.

46. From the above summary of working definitions, there emerge some basic elements which seem to be widely agreed upon. They include some degree of involuntariness on the part of the person being trafficked, either through the employment of deceit, coercion or actual force, abuse of authority, confiscation of travel documents, or debt bondage. One question on which the above definitions are in dispute is whether trafficking for other than illicit reasons should give rise to criminal culpability.

47. The Special Rapporteur firmly believes that, as in the sale of a person, trafficking of a person reduces that person to the level of a commercial commodity and is therefore inherently condemnable, regardless of the ultimate purpose for which it is carried out. Thus, the argument that in most cases of adoption the children end up in much improved living conditions, would not in any way justify the trafficking of babies and children. Another issue that still remains unsettled is whether trafficking necessarily involves movement or transportation from one place to another and, if so, if it has to be across borders.

### C. Discussion

48. As has been proposed, the sale and the trafficking of children are inextricably linked. The lack of concrete definitions, however, makes it very

difficult in most instances to determine whether a particular transaction is a sale or is trafficking. In most cases, elements of both are involved, but there is no line where one ends and the other begins. For this reason, and for the purposes of this report, the issues of sale and trafficking will not be treated as distinct and separate categories.

### 1. Causes of sale and trafficking

49. The root causes of trafficking in children are multiple and complex. However, some of the more frequently cited are poverty, lack of employment opportunities, low social status of the girl child, a general lack of education and awareness, inadequate legislation in the countries concerned, and weak law enforcement machinery. Ethnic minorities, tribal groups, undocumented workers, stateless people and people in refugee camps are particularly vulnerable. These factors contribute to the problem, but all ethical, moral, political, economic and health reasons need to be analysed in order to gain a better understanding of how they affect the increase of sale and/or trafficking activities, particularly with regard to children.

50. Issues of sale and trafficking of children are also closely linked to issues of migration, especially illegal migration. A line must be drawn between trafficking and illegal migration in that trafficking, as currently understood, involves some element of involuntariness, either through deception, force or intimidation, whereas illegal migration often occurs with the free cooperation, if not the instigation of the illegal migrant. There are, however, linkages between the two activities. Contemporary developments have caused population movements due to war, persecution, violations of human rights, natural disasters, or very poor economic conditions. However, a number of countries have imposed more stringent measures for border control and entry requirements and have reduced opportunities for legal migration. Such measures, however, do not alter the demand in these countries for cheaper sources of labour in the informal sector which gives rise to irregular, transborder movement.

51. This combination of persistent demand and stricter controls has been taken advantage of by unscrupulous organizations and individuals who realize its potential for profit. The number of persons attempting to enter a country clandestinely has given rise to a market for services such as the provision of fraudulent travel documents, transportation, guided border crossings, accommodation and job brokering. Traffickers exploit the phenomenon of irregular migration and supply these services to would-be immigrants, and always at considerable cost. 4/

52. It is quite clear that as long as the market and fiscal policies of countries encourage the expansion of the informal sector, the underground economy will always be a magnet for irregular migration. Governments will therefore have to take measures to integrate the informal sector with the formal sector if the flow of illegal migrants is to be stopped. This is very crucial, as very often, it is in such irregular and clandestine operations that children are ensnared into trafficking.

## 2. Identified aims of trafficking

### (a) Commercial sexual exploitation

53. The Special Rapporteur has dealt extensively with issues pertaining to the commercial sexual exploitation of children in her previous reports, including the causes and effects thereof.

### (b) Adoption

54. Another cause of trafficking, especially of babies and very young children, is intercountry adoption. The increase in such adoptions results from the shortage of children available for adoption in most developed countries. Rising infertility rates in some countries, the widespread use of contraceptives, legalization of abortion, and changing mores which now enable single mothers to keep their children are factors which have drastically reduced the number of children who would otherwise be available for adoption locally. UNICEF estimates suggest that the demand is about 50 applicants for every healthy infant. Hence, for a growing number of couples, intercountry adoption has become the only viable alternative. Furthermore, the growing will to keep children living in very difficult circumstances with their birth families and in their native environments also plays a part in increasing the demand.

55. The "need" for children has put pressure on sending countries to respond quickly to the growing demand, often without having the necessary infrastructure and mechanisms to proceed properly. This situation has led to abuses and the creation of a veritable international market for adoptable children. Trafficking of children for the purpose of adoption is continuously increasing, and in some countries it is reported that the fees charged by intermediaries to handle adoptions range from $5,000 to $30,000 per child.

56. However, there is a distinction - although often blurred - between trafficking and illegal practices in intercountry adoption. Where an intercountry adoption is otherwise legitimate, the adoptive parents, in order to accelerate the process, often pay sums of money to intermediaries: people who are on the periphery of the arrangements of the adoption, such as doctors, lawyers or employees in orphanages. In such a case the adoption remains legal, despite the illegal practices involved.

57. However, "trafficking" in this context arises when the adoption can be compared to a sale - for example, when a child is kidnapped or given for adoption by a relative without the prior consent of the parents. Concerning the parents' authorization for adoption, special attention should be given to the situation of unmarried or especially poor women who, because of their financial situation or the social unacceptability of their circumstances, may be forced or pressured into giving up their children for adoption.

58. The Government of Spain provided a useful analysis of some of the methods which have been detected as being in operation in Spain through which illegal adoptions are facilitated. They reported that certain irregularities in international adoptions have been detected in situations where, for example, Russian or Central European children are placed in orphanages through

organizations which receive large sums of money from the future parents for making the adoption arrangements. The Special Rapporteur considers that many elements of the process which Spain reported comprise an accurate picture of the process by which such adoptions are facilitated in many countries.

59. This procedure was reported as follows:

(a) The future parents get in touch with organizations which advertise in the media as being able to arrange legal adoptions;

(b) The adoptive parents then choose the child they want from a "catalogue" or accompany a representative of the organization to the Russian Federation, Bosnia and Herzegovina, Romania, etc. where they visit various orphanages to select a child, who is almost invariably very young;

(c) They then return to Spain with a passport of the country of origin but bearing the names of the Spanish parents. Once in Spain they do everything possible to legalize the adoption, even alleging falsely that the minor is ill, in order to be able to adopt it and, in some cases, they use a document that they obtain illegally or by bribery in the country of origin certifying that the adoption has been certified by a court.

60. Spain has adopted a procedure by which the minors in question are allowed to enter the country, but the documents with which they have been provided and the particulars of the adoptive parents are noted and subsequently brought to the attention of the Directorate-General for Minors and the Family and the Government Procurator's Office.

61. The Spanish police have looked into what happens before adoption and have found that the following devices or methods are used to register children who are bought and sold: (i) the biological mother uses the name of the adoptive mother in the register of the clinic where the birth takes place and then, without fear of subsequent difficulties, registers the child as if it were the natural child of the parents effecting the purchase; (ii) the birth certificates are falsely made out by doctors in the name of the adoptive parents; (iii) prior arrangement is made between the biological mother and the adoptive father to present himself as the natural father and recognizes the child as his own in the register.

62. The flow of intercountry adoptions and of this type of trafficking is from South and Central America, Eastern Europe and South-East Asia to the Western world. For example, in Australia in recent years more than 5,000 children have been adopted from places as diverse as Bolivia, Chile, Colombia, Guatemala, Haiti, Hong Kong, India, Mauritius, the Philippines, Poland, the Republic of Korea, Sri Lanka, Thailand and Viet Nam. 5/ Over 20,000 children from Asia, Central and Eastern Europe, and Latin America are adopted by foreigners from developed countries each year, and the demand for healthy babies is growing rapidly. Those who argue that intercountry adoption is exploitative complain that it encourages the purchase of children, which in turn thwarts the development of children's services in the developing world and is destructive of a child's heritage.

63. It should be noted that even though intercountry adoptions are the primary source of profit for the criminal organizations involved, the clandestine selling of children for adoption also operates within countries.

64. It is noteworthy that the Convention on the Rights of the Child marked a radical shift in terms of the aim of the adoption process. Whereas adoption used to be viewed primarily as a way of satisfying the needs of and providing happiness to the adoptive parents, under the Convention, the best interests of the child are now of primary consideration.

(c) Child labour

65. Although trafficking of children is most commonly associated with prostitution, many children are in fact recruited as a cheap source of labour. In many developing countries, labour "contractors" pay rural families in advance for their children whom they take away to work in cities. Even if such children are not literally enslaved, they are extremely vulnerable when they are away from their home environment. Many of them become domestic workers and are often victims of sexual abuse. Although child labour is most commonly thought to be a problem in developing countries, children are now being trafficked from countries such as Belarus, the Russian Federation and Ukraine into Hungary, Poland, the Baltic States and the capitals of Western Europe for such purposes.

66. Many children who are trafficked for the purposes of labour end up working in construction or in factories, exposed to a multitude of health risks, many of which prove fatal. The ILO reports that in the construction industry, 26 per cent of working children suffer from job-related injuries or illnesses, including beatings from their employers. Children who work in agriculture often suffer the effects of poisoning from the pesticides used.

67. A new programme to curb trafficking of children for labour exploitation in Asian countries has been launched by the ILO. Targeting children under 18 who are at risk and are victims of trafficking in the Mekong basin and in South Asia, the new programme covers Bangladesh, Cambodia, China, Nepal, Pakistan, Sri Lanka, Thailand and Viet Nam. Priority target groups include girls, children from ethnic minorities and tribal populations, and children under 12 years of age.

68. In Africa, the ILO has warned that if current trends continue, there will be 100 million African child labourers by the year 2015. Some live and work in slave-like conditions, are forced into prostitution, or end up on the streets of cities far away from their families.

69. The Spanish Government reported that the existence of an organized network exploiting foreign minors, especially from Ecuador, was uncovered in 1998. The minors, mainly girls between 13 and 17 years of age, travelled by air from Quito and arrived in Madrid or Alicante via Amsterdam. They were tricked into leaving Ecuador with promises of well-paid work, and as such had the authorization of their parents. Once in Spain they were put to work making Ecuadorian handicraft products and selling them in the streets in extremely harsh working conditions. The persons operating the network were of Ecuadorian nationality and were in Spain illegally.

(d) Criminal activities

70. Of the many and varied categories of "labour" for which children are trafficked, some are illegal per se, regardless of the age of the actors. The Special Rapporteur has received reports of organized crime networks using children in various capacities. In Canada it was recently reported 6/ that a large drug ring is luring children from Honduras to Vancouver, where they are being turned into street-corner crack dealers. According to the Vancouver police, as many as 100 Honduran children have been smuggled into Canada. The Honduran smugglers pay their transportation costs and help them across the Canadian border. Once in Vancouver, the ringleaders allegedly set the children up in apartments and help them file refugee claims and sign up for welfare. In return, the children, some as young as 11, are forced to deal drugs on the street to pay off their "debt" to the smugglers. The Special Rapporteur welcomes reports that British Columbia's Ministry of Children and Families is working with the police and immigration officials to find ways to repatriate the children but expresses her concern that any decision regarding the children will reflect their best interests and in no way define them as criminals.

71. IOM reports 7/ that representatives of crime networks recruit street children in Cambodia by giving them glue to sniff, creating an addiction and, thereby, a dependency upon the recruiters. The children are then taken to Thailand, where the glue-sniffing serves the purpose of decreasing the child's inhibitions about committing criminal acts. The IOM report concedes that little information is available about the specific purposes and operation of these criminal groups.

(e) Begging

72. Children are not always deceived or abducted by recruiters of beggars. They are often attracted by stories about the easy money that they can earn in big cities or tourist resorts. Even when most of their earnings are taken from them, the mere fact that they are able to eat every day may represent a significant improvement over their previous life. At the same time, however, the recruiters and leaders of the begging rackets can earn a small fortune from their syndicates of beggars.

73. Handicapped children are particular targets for the recruiters of beggars who believe that the handicap will induce sympathy in the giver. That belief puts the child beggar at serious risk of being deliberately maimed in order to increase his or her earning potential. In 1997, a large number of Bengali children were deported to India from Saudi Arabia, where they had been taken on the pretence that they would visit Mecca. Instead they remained in the country, forced to beg every day from the many pilgrims there. On their return to India, it was discovered that several of them had broken limbs.

74. Handicapped children, old women and mothers with babies from Cambodia are especially popular with traffickers as they are very effective beggars with tourists. The sadder or sicker they look, the more money they will bring in, so that there is fear that some of the children may have been mutilated on purpose. It is reported that they are usually brought to Thailand and that

when they are caught and brought back to Cambodia, the traffickers are usually waiting for them at the border to bring them back the following day. 8/

(f) Armed conflict

75. The alarming trend of increased participation of children in armed conflicts has led to a situation whereby children are abducted and forcibly conscripted for that purpose. The development and proliferation of lightweight automatic weapons has made it possible for very young children to bear and use arms. Many more children abducted and trafficked into war zones are being used in indirect ways which are difficult to assess - for instance, as cooks, messengers and porters. Children have also been used for mine clearance, spying and suicide bombing. These concerns are specifically covered by the mandate of the Special Representative of the Secretary-General on the impact of armed conflict on children.

76. The Special Rapporteur remains concerned about reports of continuing abductions of children in northern Uganda. In June 1998, members of the Lord's Resistance Army (LRA) allegedly abducted 40 schoolgirls from a boarding school in Kalongo, 400 kilometres north-east of Kampala. Estimates suggest that the LRA has abducted between 8,000 and 10,000 children from northern Uganda over the past 11 years, marching their child captives to rebel base camps in neighbouring southern Sudan. Many children die from exhaustion, starvation or disease during the march or are murdered because they try to escape or cannot keep up. On arrival at the base camps, both boys and girls are given military training and forced to take part in hostilities, carry heavy loads and act as personal servants to the rebels. Girls are often given as "wives" to the commanders. (Further details on this situation may be found in the report of the Secretary-General on the abduction of children from Northern Uganda (E/CN.4/1999/69).)

77. Sudanese children are similarly suffering through abduction and forced slavery which has become commonplace during the ongoing civil war in that country. The raiders come from the north of Sudan and their victims are mainly from the Christian and animist Dinka communities in the south. A typical raid takes place early in the morning; men are killed, women and children are captured as slaves, cows and goats are taken, and the buildings are burnt down. Those trying to escape are shot or burnt to death, and those who are captured are then forced to march for miles, carrying heavy loads. Children as young as five are taken as slaves, although younger children will be taken along with their mothers. Most boy slaves are made to tend cows and goats, most girls have to perform domestic labour, such as cleaning, grinding grain, and fetching firewood and water, suffering sexual abuse by their masters. Many girls are subjected to genital mutilation and suffer regular and sometimes severe beatings. 9/

78. The Special Rapporteur was concerned to receive reports that in July 1998, several children between the ages of 14 and 17 went missing from a summer camp in Varmland, Sweden, for teenagers of Kurdish ethnic origin. The information she received alleges that when the children did not return from the camp, their parents feared that they had been kidnapped by the PKK for use in terrorist activities. Further inquiries allegedly revealed that 35 teenagers of Kurdish origin had been brainwashed at the camp and then sent

to the Netherlands. The information claims that the families of these children went to the police which resulted in the return of some of the teenagers, but no information has been made available about the whereabouts of the remaining children.

(g) Sports

79. The Special Rapporteur continues to express her concerns that in the Gulf States, mainly in the United Arab Emirates, the lives of young boys are being put at risk for the entertainment of spectators at camel races. For many years the boys, sometimes as young as four years of age, have been trafficked from countries in South Asia to supply the demand for camel jockeys. The children are attached to the camels' backs with cords, and the camels are made to run down a track. Children who fall risk being trampled to death by the other camels on the track, and if they refuse to ride the camels, they are beaten and forced to ride anyway.

80. In 1993, the Camel Jockey Association of the United Arab Emirates finally prohibited the use of children as jockeys. New evidence, however, clearly indicates that the rules are being blatantly ignored. In February 1998, 10 Bangladeshi boys, aged between five and eight, were rescued in India while being smuggled to become camel jockeys. The boys had been lured away from their poor families with the promise of high-paying jobs. 10/ Also in 1998, airport officials rescued two boys who were being taken to Dubai from Sri Lanka by two men who were later charged with their kidnapping.

81. Information from Anti-Slavery International suggests that new trafficking routes are opening up from north-east and west Africa. In October 1997, police intercepted traffickers in Mali taking young Mauritanian children to the Gulf, and there are reports of young Sudanese camel jockeys working in Qatar.

82. During her mission to Belgium, the Special Rapporteur learnt that children, particularly boys, are being trafficked for competitive sports. Mainly from African countries, boys are being brought to Belgium illegally to become soccer players. They are picked up by unofficial managers who visit countries such as Nigeria for this purpose, brought to Belgium and then taken from club to club by the managers who try and find them a place. If no place is found for them, often they are abandoned and, having come into the country illegally, they are placed in a very vulnerable position.

(h) Marriage

83. Although more likely to involve women, the trafficking of "mail-order brides" may involve girls as young as 13. Men who are looking for women as servants and sex partners are the catalyst for million-dollar businesses, many of which place advertisements quite openly in national and local newspapers in various countries. Mail-order bride agents have recently started using the Internet as their preferred marketing tool, since it reaches the target audience of wealthy men from Western countries. The agencies describe themselves as "introduction services", but their commercial interests in bride trafficking, sex tours and prostitution are thinly veiled by such descriptions. They offer women and girls from Asia and Eastern Europe,

providing photographs accompanied by information such as the woman's height, weight, and measurements. Some pictures show women playing with children, which raises concerns that children are also being trafficked in this way. It is estimated that there are over 50,000 Filipino mail-order brides in the United States alone.

84. Sometimes these "marriages" are successful, but all too often the women are isolated and scared, becoming virtual slaves in their own homes. The incidence of violence against mail-order brides is extremely high. Some men use their wives as prostitutes or for pornography, and there are reports of such women being tortured and killed.

(i) Trafficking in organs

85. Rumours persist that there exists an illegal trade in human organs, and the Special Rapporteur has received allegations that street children in Argentina, Brazil, Colombia, Honduras, Mexico and the Russian Federation are being killed so that their organs can be used in transplant operations. Such allegations have recurred repeatedly for over 20 years, but to the best of the Special Rapporteur's knowledge, nobody has been convicted of being connected with such an offence.

86. In this context, the Special Rapporteur recently received information that children of minority races in Myanmar were being given sweets laced with mind-altering drugs and sleeping pills by government soldiers. These children are then allegedly taken on military trucks to China where their organs, including their liver, kidney, heart and eyes, are used in transplant operations. 11/

3. Methods of recruitment for sale and trafficking

87. In rural areas in south-east Asian countries, the first contact with family members or the children themselves is usually made by men who are native to the villages. They might be people working in factories or as casual labourers in a different country or region, who have returned with reports about the money which can be made there. Acting on behalf of their agents for a sum of money, locals befriend the children and lure them with false promises. Widespread corruption adds to the complexity of the problem: village headmen, police officers and government officials are often involved in recruitment and transportation and in supplying the necessary documents.

88. The 1,500-km border between Nepal and India is porous, with numerous routes that can be used by the traffickers and at least 20 formal entry points. The children are coached on how to answer questions that may be asked at the border. Often the border officials are aware that a crime is being committed but will turn a blind eye to it and later blackmail the agents and claim their share of the money. After crossing the border, the children are handed over to another person who poses as a brother, uncle, or friend. Thereafter, girls might be given to brothel owners, and both boys and girls are taken to work in factories.

89. The study carried out by IOM in Cambodia 12/ on the recruitment of women and girls for prostitution did not lead to the impression that there exists a

highly organized (inter)national criminal network of recruiters and brothel owners, but rather that the networks are based more on a personal, sometimes familial, set of relationships.

### 4. Trafficking routes

90. Trafficking routes have been identified in virtually every part of the world, but they are constantly shifting. Changes in national legislation, political changes that result in a greater willingness of Governments to implement international obligations, the opening of new markets, conflict situations and relations between the countries in conflict can all affect the ease with which traffickers can operate.

91. Identified trafficking routes operate primarily from south to north, from east to west; from Latin America to North America, Europe and the Middle East; from countries of the former Soviet bloc to the Baltic States and Western Europe; from Romania to Italy, and through Turkey and Cyprus to Israel and the Middle East; from West Africa to the Middle East; from Thailand and the Philippines to Australia, New Zealand and Taiwan Province of China; from Cambodia and Viet Nam to Thailand; from Nepal and Bangladesh to India; and from India and Pakistan to the Middle East.

### 5. Effects of trafficking on children

92. The effects of prostitution on children have been documented in previous reports of the Special Rapporteur. They include injury, disease and trauma associated with multiple sexual encounters. Child victims of trafficking are usually sent to another country, away from their families and familiar environment, they often do not speak the language, they have absolutely no idea what will be done to them, and they are completely vulnerable to all kinds of abuses. They suffer the added trauma of often having been betrayed by those whom they trust, forcibly separated from their families by long distances and even across borders, isolated by a foreign language and culture. They may become dependent and dangerously attached to pimps and brothel operators. If trafficked across a border, their illegal status makes it very difficult for them to seek help, since they are at risk of arrest and prosecution for prostitution, for illegal immigration, and for having false identity documents. They may be jailed or deported and, on their return home, are at risk of being rejected by families and communities, re-sold, or forced to return to prostitution.

93. Among the rights that are often violated are their right to personal liberty, physical integrity of their person, health, the right not to be subjected to torture or cruel, inhuman or degrading treatment, and slavery or forced labour.

## IV. INTERNATIONAL DEVELOPMENTS RELATING TO TRAFFICKING

94. The seventh session of the United Nations Commission on Crime Prevention and Criminal Justice, held from 21 to 30 April 1998 in Vienna, set the guidelines and the schedule for the work aiming at the creation of international legal instruments against trafficking. The goal is to finalize a comprehensive International Convention against Transnational Organized Crime

at the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (10-17 April 2000) for adoption by the millennium session of the General Assembly of the United Nations in the year 2000.

95. The IOM's Technical Cooperation Centre (TCC) in Vienna is preparing a study on migrant trafficking in Poland, Hungary and Ukraine. Preliminary results from this study were discussed at a seminar in Warsaw on 8 and 9 June 1998, organized by TCC in collaboration with the Department for Migration and Refugee Affairs of the Ministry of Interior and Administration of Poland.

96. Apart from expanding ongoing activities within Asia, IOM is committed to offering assistance to women and children trafficked to Western Europe from Eastern Europe, Latin America, Asia and other areas. IOM aims to provide a return and reintegration package to these women and children in collaboration with governmental organizations and NGOs from both the Western European side and the country of origin, based on experience acquired in Asia. 13/

97. The European Union approved the "STOP" programme on 29 November 1996, which is intended to promote measures to combat trafficking in persons, the sexual exploitation of children, the production of and traffic in audiovisual material in any form and the disappearance of minors. IOM recently delivered to the EU an analysis of data and statistical resources available in EU member States on trafficking in humans, particularly in women and children for purposes of sexual exploitation, which was carried out for the EU as a part of the STOP programme.

98. The National Criminal Intelligence Service - Europol - has extended its jurisdiction from drug-trafficking and organized crime, to contributing to the suppression of trafficking in human beings and exploitation of any kind, and particularly that of minors.

99. The following section of the report summarizes the information regarding sale and trafficking contained in the replies to the circular sent to all Governments, relevant United Nations bodies and agencies, and intergovernmental and non-governmental organizations by the Special Rapporteur in July 1998.

Austria

100. In Austria, an international working group against trafficking in women has been set up at the Federal Ministry of the Interior to prepare a protection programme assisting the victims of human trafficking. However, this programme is not specifically aimed at children or juveniles, and given the incidence of minors, including boys, being trafficked from Eastern to Western Europe, and the geographical likelihood of Austria being used as a transit or receiving country of such minors, the Special Rapporteur would welcome the extension of this initiative to cover such victims.

101. Austria applies strict criteria regarding the adoption of children abroad, with such adoption only being permissible if it is more conducive to the well-being of the child than an adoption in Austria, taking into account

the child's linguistic, religious and cultural affiliation. Very few adoptions abroad therefore take place, and there are no recorded cases relating to the sale of children in this context.

Belgium

102. The Government of Belgium reports that many of the illegal immigrants entering the country are unaccompanied minors, with a large number coming from Romania and the countries of the former Yugoslavia, and most recently from Albania. The average age of these minors is 14 years.

103. In 1996 and 1997, a number of minors from West Africa arrived in Belgium claiming asylum and pretending to be between 12 and 14. However after taking x-rays of their bones, their ages were determined to be over 16, but they claimed to be younger to avoid being repatriated. Contrary to this is the situation whereby minors (or those who have trafficked them into the country) claim to be older in order to gain a work permit.

Chile

104. With its ratification of the Convention on the Rights of the Child in 1990, the Government of Chile began a process of reviewing its legislation regarding children's rights. Some of the areas targeted for improvement include the laws regarding adoption and the laws regarding child prostitution and pornography.

105. In the area of adoption, the law permits direct contact between the biological parents and the lawyers representing interested foreigners, who may or may not possess the required legal papers to adopt children. The Government of Chile notes that this practice has resulted in the trafficking of children and that the new law will limit such direct contact, calling upon the National Children's Registry to formally supervise all adoptions by either Chilean citizens or foreigners. It is also hoped that the new law will reduce the incidence of the sale of children in Chile.

106. Regarding child prostitution and pornography, prostitution is legal in Chile and has no specific legal age limit. It should be noted, however, that until now, those involved in child prostitution could be punished under other applicable laws such as those prohibiting rape, incest, corruption of minors, sodomy, and the facilitation of prostitution. Additionally, minors are prohibited from working in brothels, cabarets, or casinos. The Government asserts that these measures, in addition to the NGO support devoted to helping girls who fall into prostitution, are sufficient for the time being, as the level of child prostitution has not become a serious cause for concern for the Government, and the police have received only five reports of child pornography in the past two years.

107. The Chilean Government has several programmes in place to aid children who have suffered abuses. These include the Program of Attention and Intervention for Child Abuse of the National Service for Minors, Welcome House Project for Child-Victims of Abuse, the Centre of Attention for Victims of Sexual Abuse, and the Legal Medical Service. These groups are working with legislators to gain more equitable treatment of children and minors.

Additionally, the Government of Chile notes that because the legal system itself makes reporting and investigations of the abuse of children and minors extremely difficult, its perception of abuse could be unrealistic. For this reason, the system is currently being revised.

China

108. The new Criminal Code of China which entered into force on 1 October 1997 set out specific provisions on combating and preventing the crimes of abduction and the sale of women and children. The new Criminal Code incorporated a decision adopted in September 1991 by the Standing Committee of the National Congress on "severe punishments for abduction, kidnapping and trafficking of women and children", which include the death penalty if the circumstances of certain categories of offence are extremely serious. These include traffic of more than three women or children, rape of trafficked women, kidnapping women or children by force, threat or anaesthesia for sale, theft of babies for sale, inflicting severe injuries on or causing the death of women or children trafficked or their relatives; or causing other severe consequences.

109. The Criminal Code also obliges State officials with responsibility for rescuing women and children being trafficked to take action after receiving a request for help from a victim or his or her relative or any other person, with penalties imposed if no action is taken. As regards the abduction of children, the Government of China reports that in most cases boys are the victims of this type of crime, as the feudal ideology of carrying on the family line continues to have great influence in China.

110. To strengthen the sense of responsibility of law enforcement officials and enhance their response, the Ministry of Public Security, the National Federation of Women's Associations and UNICEF jointly held the first Workshop on Legal Knowledge of Protecting Women and Children in May 1998 during which more than 40 police officers from various parts of the country were given training on the Convention on the Rights of the Child. Funding has been increased for investigations of child abduction cases and for rescuing abducted children. The public security bodies launched three broad campaigns in key areas of the country between 1992 and 1996, in which more than 10,000 persons organized in working groups were sent to different provinces to help rescue abducted women and children and to arrest criminals. Government statistics report that in 1997, 1,299 children were rescued and between January and July 1998, nearly 50 children were rescued.

Croatia

111. The Government of Croatia reports no cases of trafficking of children, nationally or internationally, but in recent years it has prevented illegal attempts to bring children from the then-occupied areas of Croatia across the border, the purpose of which had been to give children to foreign citizens for adoption, bypassing the legally provided procedure. Such cases were discovered when the states of origin of the "adoptive parents" requested an official position on whether such adoptions had any legal effect in Croatia.

Cuba

112. In 1997, the legislation concerning the sexual and commercial exploitation of children was strengthened with the introduction of a new Penal Code, which increased penalties for the "merest proposition" of the offer, sale or facilitation of children's involvement in pornographic acts or mendicant activities. Despite these measures, the Cuban Government acknowledges that there has been a slight rise in prostitution in the country, including the involvement of minors in this activity. This is attributed to the increase in tourism, as well as to the recent economic hardships of the country. The minors involved in this activity are entitled to legal protection, as well as social and psychological assistance, while the adults involved face stiff criminal penalties.

Cyprus

113. The Government of Cyprus reported no cases of sale and trafficking of children on its territory, and attributed this to the strong family structure of the Cypriot family and to the legal provisions for the protection of children. Children cannot enter or leave Cyprus freely, and the written consent of both parents is needed for the issuance of a passport to a child under the age of 18. Where an unaccompanied minor attempts to leave the country, inquiries are made at the port of exit. Similarly, an alien child, unless accompanied by a parent or relative or being met by a responsible person, cannot enter Cyprus unless valid reasons are offered as to the purpose of his entry.

114. The Government reported that in recent years a number of women, mostly from Asian and Eastern European countries working as cabaret performers, reported that they had been forced into prostitution. The Special Rapporteur has concerns that Cyprus is being used as a transit point for young women from Eastern Europe being trafficked to countries of the Middle East, notably Israel, and that some of these young women may be minors, accompanied by those involved in their trafficking, posing as relatives.

Czech Republic

115. Within the Czech Republic, the trafficking of children is a sporadic but recurrent problem which is mainly encountered in the Romany community, but with no indications of links with organized crime. However, there are indications that the Czech Republic is a transit country for international traffickers. Working through sophisticated networks of transnational crime syndicates, efforts to identify precise trafficking routes have largely been confounded. Generally, the trafficking routes lead from countries affected by poverty or war to Western Europe. In the cases that have been registered in the Czech Republic, children were flown from the former Soviet Union to Germany, or taken across the border in a private car. The children are, as a rule, included under false names on the passport of the female courier who accompanies them.

116. The Government of the Czech Republic reported that the traffic in children is typically associated with the traffic in other commodities, the

proceeds of which are used for other illegal activities, including the corruption of public officials, and the money is laundered through investments in legitimate businesses.

Finland

117. The Government of Finland reported that in 1998, possibly over 100 Somali children aged between 1 and 15 arrived in Finland as refugees through the family reunification programme, and then disappeared from their habitual residences. Some of them were found in Finland and Sweden seeking asylum under a new name and identity.

118. Finland has presented an initiative to the other Nordic countries whereby DNA testing could be used for determining family connections when receiving refugees within the framework of family reunification programmes.

119. Some minors between the ages of 15 and 18 have come to Finland from the Russian Federation and Estonia. Although minors may not cross the border alone, they sometimes carry falsified identity documents. The Government has concerns that Finns are visiting these regions for the purposes of sex tourism and that sexual services are bought from minors, sometimes paid for with food, clothes or narcotics instead of money. The Finnish Penal Code has been amended and from 1 January 1999, the purchase of sexual services from minors under 18 will be a punishable act.

120. There have been cases of adoption of children from Asian countries and the Government reports cases of persons from the United States inquiring how Finnish children could be adopted for payment. However, since the Finnish Adoption Act was amended in 1985, only a few cases have come to the knowledge of the authorities where an illegal compensation in money has been associated with adoption.

France

121. Over the last 10 years, France has taken a preventive approach to child abuse generally, with attention paid to the specific type of ill-treatment represented by child sexual abuse. A campaign has been carried out to raise public awareness and to inform and train people working with young people to protect them from sexual maltreatment and abuse. A permanent interministerial unit on child abuse (Groupe interministériel permanent pour l'enfance maltraitée (GPIEM)) has been established. The role of this unit is to respond to requests from the departments and to make various works, studies and research available to local partners. GPIEM has been expanded to include ministries dealing with the problem of child abuse at the international level.

122. The Ministry of National Education has offered each primary school pupil a "safety passport", an instruction booklet designed to prevent sexual abuse. A circular distributed by the Ministry in 1997 reminded all teachers of their obligation to report sexual abuse of minors and specifies the penalties applicable to public servants who commit such acts.

123. In the context of the prevention of sex tourism, Act No. 92-645 of 13 July 1992 sets out the conditions for the organization and sale of travel and holiday packages, and are intended to prevent the establishment of sex tourism rings abroad under the guise of legitimate travel. Since 1993, France has been participating in the ECPAT campaign. This participation has included contributing to the drafting of a brochure which has been distributed by over 200 agencies to all travellers going to South-East Asia, so as to make them aware of the penalties and dangers of sex tourism.

India

124. In India, the Central Social Welfare Board indicates that in the six metropolitan cities alone, there are about 70,000-100,000 prostitutes. Thirty per cent of them are below 18 years of age, and at the time of entry into prostitution, about 15 per cent are under 15 years of age while 25 per cent are between 16 and 18 years; 94.6 per cent are Indian, 2.6 per cent are Nepalese and 2.7 per cent are from Bangladesh. Goa is a known destination for sex tourists.

125. India has specific legislation to deal with trafficking and use in prostitution of children through the Immoral Traffic Prevention Act (ITPA) which prohibits prostitution in its commercialized form without criminalizing the sex workers. It covers offences against both girls and boys, and lays the presumption of guilt on the accused in cases where children or minors found in a brothel are detected to have been sexually abused. The Act also envisages a comprehensive scheme for rescue, protection and treatment of the victims.

126. Several proposals are under consideration for strengthening the legal machinery to check sexual exploitation and trafficking at the national, regional and international levels, including measures to deal with preventative aspects, and aim at mitigating the suffering of victims of prostitution. The Special Rapporteur is particularly encouraged to learn that the Government has proposed a constitutional amendment to make the constitutional directive regarding free and compulsory education for children a reality. She would like to take this opportunity to reiterate her belief that education plays a crucial role in the protection of children, through raising their own and their parents' awareness of the dangers of commercial exploitation, providing them with the necessary skills to earn a living in a legitimate manner and, more simply, by providing them with a safe environment and occupying their time on a daily basis.

127. The Government of India has followed a four-pronged strategy in its pursuit of the elimination of child prostitution and trafficking in women and children - the focus being on rehabilitative measures for victims, economic empowerment of women in general to prevent them from falling into prostitution, provision of support services to them, and awareness generation.

Ireland

128. In 1998 the Child Trafficking and Pornography Act was enacted in Ireland, the purpose of which is to strengthen the legislative measures which aim to protect children from sexual exploitation by targeting these two particular manifestations. Another recent initiative is the publication by

the Department of Justice, Equality and Law Reform of a Discussion Paper on the Law on Sexual Offences, which is described as a "legislative stocktaking exercise" of all Irish criminal law concerning sexual offences, and particularly on sexual crimes against children, aimed at facilitating informed public debate on what further law reforms are necessary. The Special Rapporteur welcomes the inclusion in the discussion of the issue of media reporting, as well as issues relating to the introduction of a sex offender or "paedophile" register.

Germany

129. In order to combat trafficking in women and girls more effectively, the Federal Government has institutionalized the Working Group "Trade in Women", in which all ministries involved with the issue at national and state levels, the Federal Criminal Police and the advice centres of non-governmental organizations are represented. As Germany is particularly affected by trafficking in women and girls coming from Central and Eastern Europe, special measures have been taken such as the promotion of advice centres working in Germany with women and girls from these regions who have become victims of trafficking. National measures are being extended by activities at the international level and in countries of origin, such as networking between the advice centres, awareness-building among women and girls in countries of origin, and training, particularly among the police, the judiciary, and members of the diplomatic missions abroad.

130. As a result of the sixth amendment to criminal law legislation which came into force on 1 April 1998, the penal provisions against child removal have been extended in article 235 of the Criminal Code. In article 236, a new penal provision against trafficking in children has been introduced with a view to facilitating legal action in cases of sexual abuse of children. The Criminal Code has been broadened in order to improve criminal prosecution of German nationals in cases of sexual abuse of children abroad. It is now possible for the German judiciary to prosecute such cases even if the perpetrator has his permanent residence abroad.

San Marino

131. The Criminal Code of San Marino, pursuant to article 268, applies a term of imprisonment of 4-10 years to anyone committing traffic in people for the purpose of prostitution in foreign countries. Any connection of the offender with local organizations abroad, as well as the use of force, threat, deception or kidnapping against the victim, are aggravating circumstances increasing the sentence to 6-14 years. Article 283 condemns begging as a profession; punishment includes imprisonment from two months to one year. The Special Rapporteur would take this opportunity to reiterate that, as with prostitution, where begging is carried out by way of an organized syndicate, the minors involved should only ever be treated as the victims and never the perpetrators.

Slovakia

132. In recent years Slovakia has become a transit country for transport of child victims for the purpose of pornography, prostitution and sex tourism. In order to prevent further commission of these offences, the Government has adopted certain measures. In the case of sale of children, the draft of the re-codified criminal law punishes the perpetrators' action more strictly according to the intensity of the violence used and takes the committing of the offence by a member of an organized group, as well as repeated offences by the same perpetrator, into consideration. The amendment to the criminal law also takes into account the motives for committing the offence of kidnapping and the intensity of the violence or threat of violence used. Through the National Interpol Office and the police liaison officers, there is a close collaboration with police abroad in uncovering and documenting cases of child pornography and sexual exploitation of women and children for commercial purposes.

Spain

133. The Government of Spain reported that traffic in children in the member States of the European Union as well as other parts of the world is not only a complex process but is also on the increase. Until a few years ago, the adoption of children in Spain in general was by private arrangement between the two parties. The entry into force of Basic Law No. 1/1996 of 15 January 1996 on the legal protection of minors resulted in a partial amendment to the Civil Code and the Law on Civil Proceedings in respect of adoption in accordance with the provisions of the Hague Convention on Protection of Children and Cooperation in Respect on Intercountry Adoption. At present, the Penal Code defines both domestic and foreign traffic in children and penalizes natural and adoptive parents and intermediaries involved in transactions involving children for gain. The main difficulty encountered by the police in tracking down the traffic in babies is the virtual absence of complaints and the secrecy surrounding the arrangements made between the parties concerned. Large-scale organized crime groups engaged in the sexual exploitation of minors are rare in Spain.

Switzerland

134. On 1 January 1998, an office of criminal analysis in charge of trafficking in human beings was set up. Although its capabilities are limited - only four persons working full time, it has established certain priorities in its activities. It will focus its efforts on combating paedophilia and child sex tourism, pornography and children in prostitution.

Syrian Arab Republic

135. The Penal Code of the Syrian Arab Republic designates the abduction, unlawful transfer and abandonment of a child punishable offences, as are flirting or engaging in an indecent or obscene act with a minor by way of touch, gesture or insinuation. Under the terms of article 10 of the Prevention of Prostitution Act, it is a punishable offence to incite a person to engage in debauchery or prostitution or to aid or abet in a person's engagement therein.

Trinidad and Tobago

136. Trinidad and Tobago reported that there is no concrete evidence of the sale and trafficking of children in, out or through the State, although there have been isolated reports of the trafficking of children from family groups for illegal adoption abroad or sexual exploitation. A greater problem for the country in this context is perceived to be that of a receiving country for sex tourists, which involves the commercial sexual exploitation of male and female children and adolescents. The Special Rapporteur is concerned that among the females involved in prostitution are girls brought before the courts for being "beyond control", such behaviour also including running away from home, habitual disobedience, threatening or violent behaviour towards parents or guardians, and general aggressive and anti-social behaviour towards others. Although prostitution may not be the primary cause for girls being brought before the court, the Special Rapporteur would again like to stress that it is vital that all minors engaged in prostitution are not categorized as juvenile delinquents.

Turkey

137. The Government of Turkey reported that there are no national or international routes through the country for the trafficking of children for sexual purposes. Children involved in prostitution and similar acts are referred to the Juvenile Courts. Before the decision for conviction is taken, an investigation is conducted about the family, social conditions, upbringing and educational backgrounds of the juvenile delinquent. The juvenile delinquents are sent for punishment to detention centres. The Special Rapporteur would again reiterate her grave concerns that some countries continue to treat children in prostitution as offenders rather than victims and would urge all Governments to review their legislation to ensure that punitive measures are never imposed upon such children.

United Kingdom of Great Britain and Northern Ireland

138. In the United Kingdom, public awareness and concern as regards intercountry adoption began to rise around 1990 following media coverage of the situation of orphans in children's homes in Romania. Given the very few babies available for adoption in the United Kingdom, many couples saw the situation as an opportunity to adopt a child, including some who had not received the requisite approval for adoption from United Kingdom authorities. Some of these did not even try to seek approval but merely "rescued" a child from the country. One of the main concerns of the Department of Health is now the removal of children from Guatemala to the United Kingdom without the prospective parents being approved as suitable to adopt. Children are brought to airports in Europe, notably Amsterdam, by the legal representative of the adopters, or sometimes by a relative of the child. The child is then handed over to adopters from the United Kingdom and then brought across the Channel by car. The Department of Health has concluded that many countries from which children are brought to the United Kingdom do not operate effective emigration procedures and have little or no measures in place to control child trafficking. Sometimes court officials and civil servants succumb to bribes

and some lawyers are not thorough in handling adoption applications from overseas. Legal documents required for adoption can often be obtained for a price and forgery of documents is common.

139. The Police Research Group of the Home Office is currently looking at the issue of trafficking in women, and it is expected that this work will overlap with child trafficking issues. The Group is expected to report the results of its research by the end of 1999.

Other countries

140. The following States informed the Special Rapporteur that they have no reports or occurrences of trafficking in children in their countries: Jamaica, Marshall Islands, Maldives, San Marino.

Save the Children Alliance

141. In South Asia, members of the Save the Children Alliance are gathering material about trafficking, and in Bangladesh the Alliance is involved in discussions with the Government on how to include trafficking of children in the National Plans of Action. Save the Children in Greece have prepared a report, "The sexual exploitation and trafficking of children in Greece", in the context of an Alliance Europe project "Vision and Reality", supported by the European Commission.

## V. MISSION TO BELGIUM AND THE NETHERLANDS

142. At the invitation of the Governments of Belgium and the Netherlands, the Special Rapporteur visited Brussels between 30 November and 2 December 1998, and The Hague and Amsterdam on 3 and 4 December 1998. During the visit, she consulted both governmental and non-governmental organizations on issues pertaining to her mandate.

143. The Special Rapporteur warmly thanks the Governments of Belgium and the Netherlands and the people she had the privilege of meeting during the visit for their open and fruitful dialogue with her.

144. The Special Rapporteur had been interested in visiting these two countries to investigate more closely the particular concerns of her mandate as they are faced by developed countries, and more specifically to carry out a country visit in Western Europe. Her interest in Belgium had primarily arisen following the shocking case of Marc Dutroux, the man charged with the kidnap, rape and murder of several young girls, amongst suspicions that he was part of an organized network of paedophiles. Both Belgium and the Netherlands were involved in "Operation Cathedral" (see paragraph 3) and the Special Rapporteur was interested in learning more about how countries with extensive Internet access are dealing with the challenges being presented by this medium in the context of her mandate. In the event, little new information regarding the Dutroux case was available, as he has not yet been brought to trial, but the Special Rapporteur was given a very useful overview of the situation of children being trafficked into both countries for various purposes.

145. Due to the very short period of time between the end of the mission and the date of submission of reports for the current session of the Commission on Human Rights, the report of these missions will be issued at a later date.

## VI. CONCLUSIONS AND RECOMMENDATIONS

### A. Conclusions

146. One basic problem faced in effectively addressing the issues of sale and trafficking is the lack of clear definitions, which results in confusion, difficulty in drafting legislation and weak enforcement mechanisms. Even within the United Nations agencies, Member States and non-governmental bodies, the problem has elicited varied responses.

147. Without a clear understanding of what precisely is meant by the term "trafficking", it is not possible to develop a strong legal basis for the prosecution of traffickers or to combat trafficking effectively. The lack of clarity persists partly because trafficking covers a wide variety of situations, not all of which involve illegal migration or exploitation.

148. Problems are further compounded by constantly changing and innovative forms of recruitment strategies and varying modes of deception, coercion and force employed in the process.

149. Most countries of destination do not have response mechanisms in place to extricate children from exploitative situations arising from sale or trafficking. This is particularly true in the case of adoption, where most law enforcement agents are reluctant to intervene in what are perceived to be purely domestic problems. Likewise, most national legislation does not distinguish between trafficking and illegal migration. Thus, children who are victims of trafficking are also subject to the same policies of deportation.

150. There is no comprehensive gathering of data on the extent of sale and/or trafficking. Where data do exist, the statistics deal with women and children generally, and there are no indicators as to the percentage of children involved.

### B. Recommendations

151. To combat trafficking in women and children, the United States and Italy recently established a Working Group on Trafficking in Women and Children. The Group, which held its first meeting in Rome on 14 April 1998, agreed to certain joint actions, for which the Special Rapporteur would like to express her support. Among them are the following:

(a) Protection of the rights of victims of trafficking must be promoted through the exchange of best practices with respect to assistance, protection and social integration of victims. Common initiatives, including joint programme strategies for victim outreach, should be implemented separately in Italy and the United States and should provide for the protection of victims' families in their countries of origin;

(b) There is need for training for law enforcement, immigration and border officials in countries of origin to help them identify patterns and methods of trafficking and to prevent trafficking through effective investigation and prosecution;

(c) Witness protection procedures and victim services should be developed in countries of origin for cases of repatriation, including training for law enforcement officials and assistance to non-governmental organizations that provide victim services.

152. The Special Rapporteur would like to make the following recommendations:

(a) The sale and trafficking of persons must be unequivocally condemned as being an affront to human dignity, since it reduces people to the level of objects of trade and commerce;

(b) International standards with regard to sale and trafficking should be set, together with international mechanisms to ensure reporting and monitoring of State activities;

(c) Hospitals, clinics and care institutions should be strictly monitored, in order to reduce the risk of abduction, sale and trafficking of children from such places;

(d) The possibility of establishing international and regional registers for children adopted internationally should be considered;

(e) There must be international and regional registers for missing children, containing all the pertinent information for identification;

(f) Programmes and initiatives should be established to address the issue of stigmatization of single mothers and to empower them to keep their children, should they so desire;

(g) Bilateral and multilateral cooperation, especially between countries sharing borders and including institutionalized and systematic exchange of information, is imperative if the problem of trafficking of children is to be addressed;

(h) All law enforcement agents, border police, customs and immigration officials, relevant governmental ministers, and members of the judiciary in the countries affected should be trained on and sensitized to issues of trafficking and the rights and needs of the victims. Immigration and deportation policies of the receiving countries should be revised to prevent further marginalization and traumatization of trafficked children;

(i) Victims of trafficking must be guaranteed freedom from persecution or harassment by those in positions of authority and access to free legal assistance and qualified interpreters during all proceedings;

(j) The State in whose jurisdiction the trafficking took place or where the trafficked child is found must take all necessary steps to prosecute all the perpetrators;

(k) Humane policy guidelines can accomplish much to soften legal structures and help to attenuate the plight of victims;

(l) Priority must be given to the ratification and the effective and accelerated enforcement of existing conventions and instruments on human rights, on trafficking of persons and on slavery and slavery-like practices;

(m) National legislation must be reviewed, especially in sending and receiving countries, clarifying not only who is criminally culpable but also the elements of the offence and the corresponding penalties imposable therefor;

(n) Research must be systematically carried out in order to set up more effective response mechanisms, both nationally and internationally. Without statistics and knowledge of cases illustrating the extent of the problem, advocacy for positive action will be very difficult;

(o) Procedures must be elaborated to distinguish between victims of trafficking and illegal immigrants, to enable the victims to take action against the traffickers and to enable them to return safely to their countries of origin with the assistance of reintegration programmes;

(p) Other sanctions aimed particularly at deterring the sale and/or trafficking of children should be considered, like the suspension of operation or outright closure of the establishments involved in any phase of the trafficking and the confiscation of proceeds of the transaction as well as the properties utilized therein, like vehicles or other means of transport or computers, printers or other devices used in the production and falsification of illegal documents to facilitate the trafficking;

(q) Measures must be taken to ensure appropriate protection for victims and witnesses who provide information concerning the trafficking during the course of the investigation and trial and afterwards, which may entail the provisional granting of a temporary permit to stay or, in appropriate cases, the grant of permanent legal status for victims who are in the country illegally;

(r) States should facilitate the transit of child victims who are being returned to their country of origin, assisting in providing transportation and escort, under cost-sharing arrangements, as appropriate, and should ensure not only their safe return but also their continued protection against possible reprisal from abusers;

(s) Existing systems for collecting, processing and exchanging information on trafficking should be made compatible, by way of harmonizing definitions and criteria for data collection;

(t) Legal, transparent recruiting policies and procedures should be established through cooperation between countries in order to ensure that the demand for labour is met without endangering children in the process;

(u) Sustained dissemination of information on the risks of trafficking, the practices of recruiters, the circumstances in brothels and

construction sites and of other kinds of servitude, etc. must be conducted as it is a strong determinant in the decision-making processes of people. As long as information about the profitable prospects of working in another country and the success stories of returnees are more persuasive than information about the risks and dangers, people, particularly children and their parents, will be willing victims of traffickers. This information should be disseminated to the different target groups through school curricula, radio and television programmes, poster campaigns, etc.;

(v) Governments must identify and remove corrupt public officials acting as accomplices of traffickers and traders, and resist the pressure to attempt to address trafficking simply by limiting migration, which exacerbates the problem, especially for children.

153. The Special Rapporteur would like to reiterate some pertinent previous recommendations:

(a) Regional and international conferences specifically addressing the issue of prosecution of child exploitation offences with an international component should be convened in order to determine the most expeditious legal alternatives for the prosecution of offenders, i.e. extradition, prosecution in situ or through the principle of extraterritoriality, as established in legislation or through bilateral or multilateral cooperation;

(b) Reviews of legislation, especially in sending and receiving countries, harmonizing the elements of the offence and identifying which actors are criminally culpable and the corresponding penalties imposable, must be initiated;

(c) Existing response mechanisms and organizations and agencies providing assistance to child victims or their parents or guardians, such as telephone hotlines and focal points in relevant governmental and educational institutions and local communities, should be widely publicized.

## Notes

1/ Henry L. Black *et al.*, *Black's Law Dictionary: Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern* (6th ed.), Santa Clara (California), West Publishing Co., 1990.

2/ Trafficking in Migrants: IOM Policy and Activities. www.iom.int/migrationweb/focus_areas/trafficking_in_migrants/index.htm.

3/ "Trafficking in women and children", statement by Ms. Anita Botti, Deputy Director and Senior Adviser on Trafficking, Office of the Senior Coordinator for International Women's Issues, United States Department of State, delegation to the OSCE Implementation Meeting on Human Dimension Issues, 30 October 1998.

4/ Statement by Ms. Narcisa Escaler, Deputy Director-General, IOM, at the United States-European Union Transatlantic Seminar to Prevent Trafficking in Women, Lvov, Ukraine, 9-10 July 1998.

5/ Vivien Altman, *Signposts to Asia and the Pacific*, 1996.

6/ Reported by Reuters, 20 November 1997.

7/ *Supra* note 2.

8/ Ibid.

9/ Reported by Christian Solidarity International.

10/ Reported in *Hindu Daily*, 20 February 1998.

11/ Reported in *Siam Rat* (Bangkok), 11 May 1998.

12/ Annuska Derks, Trafficking of Cambodian Women and Children to Thailand (Geneva, IOM, 1997).

13/ *Supra* note 2.

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# RIGHTS OF THE CHILD

## Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Ofelia Calcetas-Santos

## Addendum

## Mission of the Special Rapporteur to the Lao People's Democratic Republic on the issue of trafficking of children (21-25 September 1998)

GE.99-10444 (E)

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## Introduction

1. At the invitation of the Government of the Lao People's Democratic Republic (hereafter referred to as Laos), the Special Rapporteur on the sale of children, child prostitution and child pornography, visited Vientiane and Savannakhet from 21 to 25 September 1998, to study the issue of commercial sexual exploitation and trafficking of children in Laos.

2. The Special Rapporteur would like to take this opportunity to express her appreciation of the cooperation and assistance extended to her by the Government of Laos, enabling her to meet with representatives of the Government, United Nations agencies and international non-governmental organizations, and to obtain the necessary information and documentation to be able to report to the Commission on Human Rights in an objective and impartial manner.

3. The Special Rapporteur would also like to thank the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF) country offices in Vientiane for the logistical support provided in connection with her mission.

4. During her visit, the Special Rapporteur met with high-level officials of the Ministry of Labour and Social Welfare, the Department of Treaties and Legal Affairs, the Ministry of Justice, the Department of International Organizations, the Lao People's Revolutionary Youth Union, the Lao Women's Union, the Right Development and External Relations Department, as well as representatives of international non-governmental organizations and of UNICEF and UNDP.

5. A list of persons with whom the Special Rapporteur met during her mission is attached as annex I to the present report.

6. The now global problem of trafficking of women and children is of particularly serious gravity in the south-east Asian region, most especially in the Mekong river area. The Special Rapporteur chose to visit Laos because, although it does not appear to be as badly affected as the surrounding countries, she was keen to explore ways in which Laos could protect itself and its children from being similarly exploited as it begins to open its borders to trade and tourism.

7. In view of financial and time constraints, the Special Rapporteur was not in a position to visit as many places in Laos as would have enabled her to carry out a truly representative study of the various aspects and differing incidence of trafficking and commercial sexual exploitation of children, especially given the geographical situation of Laos as a land-locked country sharing borders with five countries. The Special Rapporteur, therefore, chose to visit Vientiane in order to meet with relevant governmental departments and agencies, and Savannakhet, as an example of a border town situated on the Mekong river, to assess the implications of cross-border traffic between Laos and Thailand.

## I. REGIONAL SITUATION

8. Prostitution emerged as a major source of revenue in the larger cities of South-East Asia, notably Bangkok, during the late 1960s and early 1970s, when United States servicemen on leave from the Viet Nam war would visit the surrounding countries. After the war, Thailand, especially, retained its reputation as a sex centre, with the majority of patrons coming from Japan, Europe and to a lesser degree, the United States. Even now, it is contended that ex-servicemen may be operating as many as 30 sex tours that take men from the United States to Thailand and surrounding countries. 1/

9. A recent report issued by the International Labour Organization 2/ claims that prostitution in South-East Asia has grown so rapidly that it is now one of the region's major employers, with revenue from the "industry" accounting for between 2 and 14 per cent of gross domestic product in Indonesia, Malaysia, the Philippines and Thailand, and involving between 0.25 and 1.5 per cent of the total female population of the four countries. Given the current economic crisis in the region, "sex tourism" has become an even cheaper attraction for foreign visitors, and the use of children in prostitution could further increase as poverty and unemployment caused by the crisis result in an increased breakdown of the traditional family unit, leaving larger numbers of children to fend for themselves.

10. All six countries of the south-east Asian peninsula (China, Cambodia, Myanmar, Viet Nam, Thailand and Laos) have been affected by the trafficking of women and children, and by their exploitation through prostitution.

### China

11. In certain regions of China, most notably in the south, the traditional preference for a boy child has contributed to a serious imbalance in male/female birth ratios. This has created a situation where the demand by men for marriageable women cannot be met by local brides. Some families address the problem by recruiting women in economically less advanced areas, or looking for girls from other countries, including Laos. The abduction of young women and girls is a serious and growing problem as many criminal gangs operate, kidnapping or tricking women by promising them jobs and an easier way of life and then transporting them far from their home areas for delivery to buyers. On arrival, these women are forcibly married into their new families and raped. Reports indicate that these practices are growing, despite the Government of China continuing to condemn and punish those involved and to take steps to prevent such abductions.

### Cambodia

12. The ILO study 3/ concluded that since 1990 at least 3,000 Vietnamese girls have been smuggled into Cambodia for prostitution and that more than 15 per cent of them were under 15 at the time of being smuggled. In Phnom Penh, the red light district is primarily serviced by Vietnamese girls between the ages of 15 and 18 who are bought from their parents, relatives or traffickers and then have to work to repay this money plus other expenses incurred whilst travelling from Viet Nam to Cambodia. After all the debts have been paid off, the girls may earn between $2 and $3 per customer, after

the brothel owner has taken his or her percentage. Local and Vietnamese men are among the customers, as well as men from Singapore, the United States, China and Malaysia.

13. The study also found that trafficking for begging was a new trend in Cambodia and Thailand, with some 500 Cambodian children known to be involved in begging in Thailand. Trafficked children were also found on construction sites and in factories. In 1996, almost 200,000 foreign children, mostly boys from Myanmar, Laos and Cambodia, were thought to be working in Thailand.

Viet Nam

14. As well as to Cambodia, Vietnamese women and children are trafficked to other destinations. In July 1998, a Taiwanese man was arrested at Tan Son Nhat International Airport in Viet Nam, as he was leaving for Taiwan with a suitcase full of pictures and personal documents of 400 Vietnamese women. He had allegedly travelled to Viet Nam many times to organize a network selling Vietnamese women to Taiwan. These women were usually young girls from the countryside, lured by the prospect of a marriage with a wealthy Taiwanese businessman.

15. The Special Rapporteur had intended to look at the issue of trafficking from the perspective of two countries with a common border and to this end had made a request to the Government of the Socialist Republic of Viet Nam to visit the country for one week immediately preceding the visit to Laos. The Special Rapporteur regrets that the Government of Viet Nam did not extend an invitation for her to visit, as she feels that such a visit would have been of benefit to both Governments and would have made this report more representative of the varying problems faced by the countries in this area.

Myanmar

16. It is difficult to estimate the scale of trafficking and prostitution in Myanmar as much of the trade is extremely secret, with many young women frequently moving house or being brought directly to clients at night under the control of different madams or pimps. As with the other countries under discussion, some women are forced to enter prostitution to support their families, whereas others have taken it up while trying to make a living on the streets. However, the number of prostitutes has increased dramatically in response to the economic and social upheavals that have taken place in Myanmar since 1988, leaving women in particular in an economically, socially and legally disadvantaged position. Over 100 brothels are reportedly operational in the Hpakhan jade-mining area alone.

17. A large number of Myanmar women are also working as prostitutes in Thailand. They have usually entered Thailand illegally, which, coupled with their inability to speak the Thai language, means that they usually end up working in the cheapest brothels, where the HIV/AIDS infection rates are up to 90 per cent. Many different factors induce women from Myanmar to work as prostitutes in Thailand. Some have been lured into the country, while others are forced. Nearly all come from poor backgrounds and lack educational opportunities. A majority are thought to be from ethnic minorities. 4/

Thailand

18. Thailand is the primary destination for the thousands of women and children who are recruited for the purposes of sexual or economic exploitation throughout the region. Although most of these individuals remain in Thailand, many are trafficked on to other, more affluent countries, such as Japan. In recent years the Government of Thailand has initiated several measures to improve the situation, arresting brothel owners and customers rather than prostitutes, making sex with a child subject to prison and fines, and giving a number of "high risk" girls scholarships to boarding schools.

## II. COUNTRY SITUATION

19. A former French colony, the country gained independence in 1953 and was established as the Lao People's Democratic Republic on 2 December 1975. Situated in the centre of the south-east Asian peninsula, Laos is land-locked and shares borders with Viet Nam, Thailand, Cambodia, China and Myanmar. It covers an area of 236,800 sq km and has a population of approximately 4.5 million. The capital, Vientiane, has a population of 500,000.

20. Until the end of the 1980s, Laos was fairly isolated even from its immediate neighbours. Very little trade took place with other countries and there was virtually no travelling in or out of Laos either by Lao citizens or foreigners. Even as recently as 1994, a laissez-passer system existed within the country. Lao citizens could not travel between the provinces unless they could prove a valid reason for their journey; and even government servants needed this laissez-passer. In 1994, the Government lifted domestic travel restrictions for citizens and foreign visitors except in unspecified prohibited or insecure areas. Most Lao can now easily obtain passports and exit permits from the Ministry of Foreign Affairs for personal travel abroad. Border crossing permits for Lao to visit Thailand are available from local village committees for a small fee and the Government allows people to emigrate.

21. Laos is one of the least developed countries in the south-east Asian region, particularly compared with Thailand, the neighbour with whom it shares the longest border (2,069 kms) and with which it has the closest links culturally and linguistically. About 85 to 90 per cent of the population works in the agricultural sector, but over the past decade, economic reforms have led to the growth of a market economy open to foreign investment. Laos, which became a member of the Association of South-East Asian Nations (ASEAN) in July 1997, is going through a very intensive process of rapid change, both economically and socially, and is starting to enter into commercial ventures with the surrounding countries.

22. Given the centrally located geographic position of Laos, bordered by five countries, it is uniquely placed to provide major economic routes in the region. The Lao road network totalled just 13,300 km in 1994 and was of poor quality, only 20 per cent being paved. During the rainy season, the remaining 80 per cent could often become impassable. By 1996, the network had almost doubled to 22,321 km and a vigorous programme of road construction is continuing throughout most provinces. From being land-locked, it is becoming land-linked as two major roads are being constructed in the region, from north

to south (from China to the sea south of Cambodia) and from east to west (from Luang Prabang in Laos to Thailand). These two roads will link all six countries. A bridge being constructed over the Mekong river will link Savannakhet in Laos with Thailand. Electrification grids are being established in rural areas. The Government estimates that in five years' time, most communities will have been reached by the new infrastructure.

## III. THE GOVERNMENT

23. The Government of Laos operates on three levels: provincial, district and village.

24. Following the World Summit for Children in 1990, the Government signed the Declaration and Plan of Action of the Summit, committing itself to the survival, protection and development of children in the 1990s. The National Commission of Mothers and Children was set up under the chairmanship of the Deputy Prime Minister, charged with the protection, care and education of children in Laos. Its main tasks are to assist the Government in determining and implementing policies to promote the protection and care of mothers and children and help provinces coordinate their activities in child issues. It established a National Plan of Action (NPA) for children and follows up, evaluates and reports on the progress in implementing the NPA. The National Commission has now been supplemented by provincial- and district-level Commissions for Mothers and Children.

25. The Lao Women's Union (LWU) is the arm of the Government working with women in Lao development and representing women's rights. It has equal status with government ministries, and its head has equal rights and responsibilities with the heads of other ministries. The LWU has branches from the central to the grass-roots level and has led various movements, including campaigns to advise families as to the best ways to live, promote the programme of immunization and raise awareness and educate women about the importance of birth spacing.

26. The LWU works with international organizations such as UNICEF on issues of the role of women in development, health, income generation, increase of income earning ability through projects such as pig and chicken raising and traditional crafts.

27. The LWU is also involved in children's rights, and as such works closely with the Lao Youth Union (LYU), the governmental department responsible for child and youth issues.

## IV. THE LEGAL FRAMEWORK

28. Laos became a party to the Convention on the Rights of the Child on 7 June 1991, shortly before the Constitution of the Lao People's Democratic Republic came into effect by Presidential Decree No. 55/PO of 15 August 1991. Article 20 of the Constitution provides for policy implementation on mother and child issues. The Family Law came into effect by Presidential Decree No. 97/PO of 25 December 1990; it stipulates the responsibilities and commitments of parents towards children.

29. The penal law defines children as all those under 18 years. Children aged 1 to 15 years are absolved from any penal responsibility, but article 48 lists the special measures to be applied to children aged 16 to 18.

30. Under Laotian law, the minimum age for marriage is 18 years under normal conditions, 15 to 18 years in special cases, and in no case less than 15 years. The law provides specific punishments for acts of sexual abuse of children, and metes out 5 to 10 years' imprisonment to those found trafficking or abducting any person. The testimony of the victims and their families is accepted as legal evidence and proven offenders are jailed and fined.

## V. THE SITUATION OF CHILDREN

31. The Special Rapporteur regrets that she was not able to obtain any specific data on the number of children who are victims of commercial sexual exploitation and/or trafficking in Laos. The situation of children who are at risk or are victims of such exploitation or trafficking is, for most purposes, usually considered under the more general category of "Children in especially difficult circumstances" (CEDC). In 1995, the Ministry of Foreign Affairs designated the Ministry of Labour and Social Welfare as focal point to implement a project for such children. The project, also coordinated by the Lao Women's Union and the Lao Youth Union, is funded by UNICEF, Save the Children Fund UK, and the Church World Service (CWS). The objectives of the project are to assist and rescue children who are in especially difficult circumstances, to seek ways to protect children, to promote the implementation of children's rights, to tackle social problems and to build up human resources. This is being approached through the training of a core group of district-level government workers in basic skills to enable them to respond more effectively to the needs of these children.

32. Children in the following categories have been identified as being in especially difficult circumstances: those with narcotic addictions, including glue-sniffing; those who have dropped out of school; those with "bad behaviour"; those who have committed acts of theft; beggars; those working as waitresses in nightclubs; those in prostitution; and others with "difficulties".

33. The initial target of the project was to collect data on CEDC in four villages in the Sisatanak district of Vientiane municipality between October and November 1995, as a pilot project for social action research. This having been completed, the next stage was to assist those so identified in a variety of ways, including by providing a budget and educational equipment to help the children carry on studying, and by arranging vocational training for older children, such as automobile mechanic training and beauty/hairdressing training. It is intended to extend the project to all the provinces of Laos.

34. The CEDC project has also involved the convening of conferences at central and district levels, the objectives being to inform the public about the circumstances of children and about commercial sexual exploitation both globally and in Laos, in order to raise awareness to implement various measures to protect the rights of children.

35. One of the main difficulties facing children is the lack of access to education. Although most villages have a primary school for grades 1 to 3, children generally have to go to another town to continue their education at a higher grade. Even in the seven districts of Vientiane there is very little access to high school. The lack of education and vocational opportunities beyond the primary and secondary levels often leaves the children with nothing to do except work at home, keeping chickens and herding cattle, and most of those interviewed by the Special Rapporteur were of the opinion that the resultant boredom and desire to earn money combine to provide a strong inducement to travel across the border.

36. Even the public behaviour of children is starting to change. The Lao are generally very peaceful people and are rarely involved in acts of violence. However, there are currently grave concerns about violence starting to erupt in schools and the emergence of gangs. Narcotic addiction and glue-sniffing among children, mostly boys, poses a growing problem.

37. Child involvement in commercial sex is not very apparent in Laos. However the Special Rapporteur received reports that there are some establishments that may have clandestine operations in this respect. There are also some reports that children as young as 12 to 14 years of age have been used in the production of pornographic films subsequently brought out of the country. The Special Rapporteur remains gravely concerned that Laos could increasingly become exposed to the phenomenon as it transforms from a centrally planned to a market economy.

## VI. THE SALE, TRAFFICKING AND COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN

38. The situation with regard to trafficking is quite different. Environmental and geographic factors play an important role in facilitating the flow of human movement from Laos into Thailand. The same factors restrict the flow into other countries.

39. Along a large part of the very long border which Laos shares with Thailand, the two countries are divided only by the Mekong river and people find it very easy to cross from one side to the other. During the dry season, the river is very low, and it sometimes almost completely dries up, at which point people are able to walk across. This is particularly problematic in the north, where the river is especially narrow.

40. The main trafficking into Thailand appears to occur in the regions from Vientiane to Savannakhet, but as these were the areas for which the most information was made available to the Special Rapporteur, it is difficult to provide an accurate comparison with the situation in the other regions of Laos.

41. It would appear that the children living in central, rural areas of Laos may not, at the moment at least, be facing the same risks, given the relative remoteness and inaccessibility of the regions in which they live and the fact that travelling, even between provinces, continues to be especially unusual

for people living in rural areas. The north and north-eastern regions of Laos are mountainous and heavily forested, and there is very little access to them by road.

42. Another factor currently limiting the flow of movement in some parts of southern and eastern Laos, especially around the borders with Cambodia and Viet Nam, is the extensive presence of unexploded ordinance (UXO), which is estimated to amount to 3 tonnes per head of the total population of Laos. Certain areas are virtually impassable. These parts of the country are similarly affected by landmines and the infrastructure there has remained undeveloped because of these inherent dangers.

43. The Special Rapporteur received reports about the presence of recruiters in some villages, especially in Savannakhet province, who entice children and/or their parents with stories about persons who have crossed the river into Thailand and are reported to be earning substantial amounts of money. Consequently, many children cross the Mekong river, either with traffickers or on their own. Lack of information as to the dangers that are likely to await such children often means that parents are not overly concerned when their children choose to leave Laos, and in some cases the children come home with money for their families.

44. What little information is available about the ultimate fate of Lao children in Thailand, from the repatriation programmes of the International Organization for Migration (IOM), from newspaper reports and from the stories of those who have returned, suggests that many children are sold into prostitution rings or into virtual slavery on construction sites, in factories and in shops.

45. One newspaper reported how two Lao girls from Khammouane province, who had been lured to Thailand to work illegally, were forced to work 22 hours a day, were put under hot showers to keep them awake and, when they tried to escape, were forced by their employer to swallow insecticide as a punishment. After hearing of their plight, the director of the Consular Department of the Ministry of Foreign Affairs of Laos urged the administration of the border provinces to step up a campaign to warn young people of the dangers of going to work across the borders through illegal channels. 5/

46. No information was available regarding Lao babies being trafficked for adoption, or the percentage of children who have made successful lives for themselves outside of Laos, earning money in non-exploitative situations.

47. Although the present report focuses mainly on the trafficking of children from Laos into Thailand, Thailand is not the only destination country of children in the region. There are many allegations that it is also being used as a transit country, through which South-East Asian children are trafficked to third countries, such as Japan and countries in the West. In particular, five cases were reported involving Lao girls who were invited by Japanese men to go sightseeing with them. They were brought on Thai passports to Japan, where they were sexually exploited for several years.

48. It is very difficult for such children to report their plight to the local police, as they have entered the country illegally and are likely to

receive the same treatment as illegal immigrants. The Special Rapporteur received one report of two Lao girls who were caught as illegal immigrants in Thailand and were imprisoned in a cell with male prisoners, who sexually abused them. 6/

49. In Thailand, when the police are sympathetic towards children whom they find in such circumstances, non-governmental organizations such as End Child Prostitution, Child Pornography and Trafficking (ECPAT) can become involved in the child's case and begin the process by which the child can be returned home. IOM often facilitates the logistical arrangements for returning an illegal immigrant across the border and when the child has returned to Laos, organizations such as CWS will try to help the child, ensuring that if a child is put in detention, he or she has a place to go immediately upon release, and does not fall straight back into the hands of the recruiters.

50. Although it is difficult to avoid the possibility that such children will return to Thailand, CWS operates various projects for children in detention, including teaching them skills such as making baskets, mats, or serviettes, in order to provide them with viable alternative ways to earn money. In a preventative approach, similar projects are carried out for children who are still at school. The children may go to weavers and carpenters in their home villages to learn various skills, and after-school activities such as dance clubs have been established to occupy the children's leisure time. Unfortunately, the activities of the non-governmental organizations are very restricted by a shortage of staff and resources.

## VII. CASE STUDY OF SAVANNAKHET

51. The Special Rapporteur visited Savannakhet province with the objective of studying the implications of cross-border trafficking between Laos and Thailand for the purposes of labour and prostitution. Savannakhet has an area of 21,774 km and is located in the southern part of Laos. To the west is a 200 km stretch of the Mekong river, which forms the border with Thailand's provinces of Mukdaharn, Nakhonpanom, Ubol Rasathani and Anatchalern. Savannakhet is divided into 15 administrative districts and has 1,500 villages.

52. Whilst in Savannakhet, the Special Rapporteur met the Governor of the province, officials from the Lao Youth Union and the Lao Women's Union of Kanthapoly district, and representatives of the village of Ban Naxeng.

53. The Special Rapporteur was informed that the Provincial Youth Unions and the non-governmental organization Redd Barna have undertaken some studies relating to the CEDC project, focusing on 15 villages out of the 94 in Kanthapoly district. The preliminary findings of the study, which are currently being analysed at the central level, indicate that there are problems with children crossing the river to go to work in Thailand and that many children and young people in Kanthapoly are out of work, similar problems faced by other provinces along the Mekong river. In one of largest villages in Savannakhet, with a population of about 1,800, it was reported that between 50 and 100 children had left home to work in Bangkok over the past couple of

years. A member of the National Commission for Mother and Child reported that as many as 5 per cent of children in the border towns and villages cross the river to Thailand.

54. The villagers of Ban Naxeng explained that children cross the river as a result of different factors. In some situations their parents encourage them to go, whilst others go after being influenced by organized groups of recruiters who come from Thailand to try to encourage the children to cross. They forge the necessary papers for them and then deliver them to work in Thailand. For the children from Kanthapoly who go to Thailand, it was reported to the Special Rapporteur that the most common form of recruitment is through a relative coming from the other side of the river and recruiting two or three, mainly girls.

55. The situation of children crossing to Thailand is partly seasonal in that many children go during the summer holidays from school. Sometimes they only go for a month and then come back. Many do not return, but of those who do, some then share their experiences and boast to other children about the money that they made, thus encouraging them to go during the following summer holiday. Many of the "bad influences" now being experienced in the region, such as glue-sniffing by children, are said to have been introduced by returning youngsters.

56. Most of those interviewed by the Special Rapporteur were in agreement that the nature of the work ultimately undertaken by the children who leave the district is unknown. Of the few children who are able to send money back to their parents, it is known that they are working in factories and bakeries in Bangkok and the surrounding provinces, and sometimes even in the provinces just across the river.

57. One report detailed the story of a boy who had been working in a shop and who was sent home after he was hit by a car and broke his legs. Another girl was beaten almost to the point of being disabled, and a small factory in Bangkok forced many children to work 14 to 15 hours a day in a cramped sitting position, which left many of them crippled. 7/

58. Many young people from other parts of Savannakhet province are attracted to Kanthapoly as it is the provincial capital district, and they believe that they will have more opportunities there. It is believed that some of these young people may be involved in prostitution within the district. But, being away from their families puts them in a particularly vulnerable position when approached by recruiters from abroad.

59. There are reportedly no brothels in Savannakhet. The Provincial Youth Unions try to ensure that young people are not involved in illicit activities by checking places that young people frequent, such as discotheques, small restaurants, bars and shops selling alcohol, but they consider that there is a strong possibility that prostitution does take place on such premises.

60. The situation regarding the lack of access to education was confirmed during the Special Rapporteur's visit to Savannakhet. The one school in Ban Naxeng has been divided into morning and afternoon groups in its attempt to accommodate all the children of the village, thus halving the time spent in

school for those who receive education. Even this half-education is only available to primary and secondary school children, and not only do both age groups attend the same school, but children in the neighbouring four villages also come to school in Ban Naxeng. Beyond the secondary level, even the provincial districts are not able to accommodate all the needs of the children.

61. Attendance at school is compulsory at the primary and secondary levels, although there is no penalty for parents who do not send their children to school. Of those who attend school, 70 per cent are girls, as there is more work at home, such as tending animals, for boys than for girls. Those children who have time for recreation normally meet and play by the temple.

62. The main difficulties with regard to how children will occupy their time comes after the compulsory three years of secondary school have ended. Very few children have access to vocational schools or university. The majority have only general knowledge, which does not qualify them to do much other than work in the fields or in labouring jobs. Many grow food or raise chickens, but do not have any opportunity to learn about the commercial side of such ventures.

## VIII. AREAS OF PARTICULAR CONCERN

63. At the present time, reports of Lao children ending up in particularly abusive situations are comparatively unusual as compared with the other countries in the south-east Asian peninsula, but considering the otherwise very welcome growth of industry in Laos and the development of the infrastructure, this could be set to change, and the Special Rapporteur has several primary concerns:

(a) That there will be a significant increase in the number of workers coming into new regions, which would bring with it the risk of prostitution. Development is placing heavy demands on the supply of efficient manual labour and skilled workers and much of this demand is being met by foreign nationals, mainly Vietnamese and Chinese. The demand for commercial sex is likely to increase as many of these migrant workers would be away from their spouses for long periods.

(b) That the influx of people into previously isolated communities will bring in certain negative influences which the communities are not adequately prepared for. In interviews with the Special Rapporteur, persons from various sectors of society expressed concern that children and their parents are vulnerable to temptation to leave their homes owing to false promises of better opportunities elsewhere. The opening up of the roads would be likely to affect particularly the smaller ethnic minority groups who may be the least prepared to cope with the impact of the changes upon their lives.

(c) That the new infrastructure would facilitate the trafficking of children through and out of Laos to all the surrounding countries.

(d) That there could be a negative side to the contribution made by tourism to development in Laos. Joining ASEAN has led to an easing of visa restrictions and tourism is continuing to grow at a steady rate. The

Government has designated 1999 as "Visit Laos Year" and new hotels and airports are being put in place to accommodate the anticipated increase in the number of tourists. The Special Rapporteur is concerned that while the country is preparing itself structurally for tourism, it may not have prepared itself for the dangers and negative impact that will accompany the benefits of this growth, especially with regard to the protection of children.

(e) That Laos may be perceived as a new alternative to the more traditional destinations for "sex tourists", such as Thailand and the Philippines, both of which are increasing measures to combat sex tourism. These measures include heavier penalties for abusers, the adoption of legislation on extraterritoriality, and extradition agreements with traditional countries of origin of the abusers to make it harder for sex tourists to visit their countries, abuse their children and then escape with impunity. This development may cause sex tourists to explore new areas, like Laos, which may be perceived to be more hospitable.

## IX. CONCLUSIONS AND RECOMMENDATIONS

64. The Special Rapporteur considers that Laos has the advantage of still being in a position to concentrate on preventive measures to protect children from exploitation and abuse. However, if these measures are not put in place very rapidly and unless the Government gives them priority and adopts coherent programmes of activities, the country may find itself in much the same situation as some of its neighbours in Asia that are afflicted with a conflagration of child exploitation and abuse.

65. The Special Rapporteur would encourage a search for initiatives that are particularly suited to the unique situation of Laos. The traditional border control initiatives used in other countries may not be very effective in Laos, given the length of the border and the easy entry and exit, especially into Thailand. Methods of education and dissemination of information other than the regular media (newspapers and the radio) may have to be explored considering the topography and the lack of resources of the country.

66. The following are recommendations for action:

(a) The establishment of accessible schools coupled with training of qualified teachers, at least at the primary and secondary levels;

(b) A nationwide and sustained information campaign on the risks of trafficking, the practices of recruiters and the circumstances in brothels, on construction sites or in other kinds of servitude must be conducted to enlighten parents and children alike. As long as information about the profitable prospects of working in another country and the success stories of returnees is more convincing than information about the related risks and dangers, young people will be gullible victims of traffickers.

(c) This information must be targeted to reach the different sectors of society as widely as possible: parents, children, policy makers, business sectors and immigrant workers alike.

(d) The Lao Women's Union, the Lao Youth Union, the village leaders and other sectors of society should be mobilized to carry out the above information campaign so that it would reach the remotest parts of the country.

(e) There should be allocation of responsibility and accountability to the villages to protect their own children through monitoring and vigilance in guarding against recruiters and traders.

(f) An inventory of the legislation especially that affecting children's rights and protection should be made, with the object of determining gaps that need to be filled, either by the introduction of new laws or by amending or repealing existing laws. The sale and trafficking of persons, most especially children, must be unequivocally condemned as being an affront to human dignity, and this must be reflected in penal laws punishing the offenders.

(g) Bilateral or multilateral cooperation must be achieved with the countries sharing borders, particularly Thailand, including institutionalized and systematic exchange of information, in order effectively to prevent children from crossing the borders and to protect those who have already done so from victimization.

(h) All government programmes aimed at economic development must be reviewed to ensure that children are not sacrificed in the process.

(i) Particular attention must be paid to the ethnic minorities, whose children will be particularly vulnerable not only to outside influences but also to the rapid changes within the country.

(j) Livelihood programmes for out-of-school youth must be instituted with the cooperation of the business sector, not only as a means of giving support to the children but also as an effective deterrent to their becoming involved in any kind of narcotic addiction.

(k) The State in the territory of which trafficking takes place or where a trafficked child is found must take all the necessary steps to prosecute all the perpetrators;

(l) The legislative framework must be enacted for cooperation with national non-governmental organizations, as indispensable partners in child protection.

## Notes

1/ "Thai sex trade traps 'nonexistent females'", Chicago Sun Times, 26 July 1998.

2/ ILO, "The Sex Sector": The Economic and Social Bases of Prostitution in Southeast Asia, August 1998.

3/ Ibid.

4/ Article XIX, "Fatal silence? Freedom of expression and the right to health in Burma".

5/ "Two girls rescued from Bangkok sweatshop", Vientiane Times 19-25 July 1996.

6/ Vientiane Times, 14-16 January, 1998.

7/ "Lao children in danger", Vientiane Times, 19-21 March 1997.

Annex

LIST OF PERSONS WITH WHOM THE SPECIAL RAPPORTEUR MET DURING HER MISSION

Vientiane

Khammoune Souphanthong
General Director, Social Welfare Department
Ministry of Labour and Social Welfare

Phetduangchanh Ekbanlang
Deputy Director, Planning and Cooperation Division
Ministry of Labour and Social Welfare

Amphayvanh Vilaychaleun
Deputy Director, Social Welfare Department
Ministry of Labour and Social Welfare

Ket Kiettisak
Deputy Minister of Justice

Phoukhao Phommavongsa
Deputy Director, General Department of Treaties and Legal Affairs
Focal point for human rights

Mr. Sukala
Lao Committee for Children

Khonepheng Thammavong
Deputy Chief Director, Department of International Organizations

Khamphamay Sennouvong
Chief of International Affairs
Comité Central de L'Union de la Jeunesse Populaire Revolutionaire Lao
(Lao Youth Union)

Vilaseng Sathongnot
Director, Pioneer Department
Lao People's Revolutionary Youth Union

Lao Women's Union
Department of Women's Rights and Interests

Khamla Xaysombath
Deputy Director, Right to Development and External Relations Department

Khamkhong Phimmachack
Staff member of Right to Development and External Relations Department

Xuyen Thi Dangers
Programme Assistant for Social Development
Church World Service

K.C. Krishna
Programme Advisor (education) Redd Barna/Save the Children Norway

Valthana Manoroth
Preschool Project Manager
Save the Children Fund UK

Pricha Petleung
Radio and Community Mobilization Specialist
UNICEF

Titta Maja
UNDP

Anne Glad Fredriksen
Programme Officer UNDP

Curtis Hundley
UNDP

Patrica Mahoney
United States Embassy, Vientiane

Pricha Petlueng
UNICEF

Tony Lisle
UNAIDS

Maurice Japted
UNICEF

Jacqui Badcock
United Nations Resident Coordinator

Jeffrey Avina
UNDP Resident Representative a.i.

Savannakhet

Inpong Khai Yavong
Governor of Savannakhet

Linhsaythanome Phrasavath
Secretary, Lao Youth Union Executive Committee

Mr. Somchanh Chuangbaykham
Savannakheth

Mr Vilaseng Sathongnot
Director, Pioneer Department
Lao Youth Union

Mrs. Onechanh Phetchantharath
Head of Pioneer Training
Lao Youth Union

Ms Phianthanom
Vice-Secretary of Savannakhet Province

Mrs. Linhsay Thanom
Secretary of Kanthapoly District
Lao Youth Union

Dr. Vanhmany

Mr. Phetduangchannh

Mr. Vinay
Head of Ban Naxeng Village

Mr. Inthone
Head of Ban Naxeng Village Youth Union

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COMMISSION ON HUMAN RIGHTS
Fifty-fifth session
Item 13 of the provisional agenda

# RIGHTS OF THE CHILD

## Report of the Special Representative of the Secretary-General for children and armed conflict

## Note by the Secretary-General

1. The General Assembly, in its resolution 51/77, recommended that the Secretary-General appoint for a period of three years a Special Representative on the impact of armed conflict on children and requested the Special Representative to submit to the General Assembly and the Commission on Human Rights an annual report containing relevant information on the situation of children affected by armed conflict. Mr. Olara Otunnu (Côte d'Ivoire) was subsequently appointed Special Representative.

2. The Commission on Human Rights will have available to it the report submitted by Mr. Otunnu, Special Representative of the Secretary-General for children and armed conflict to the General Assembly at its fifty-third session (A/53/482, annex).

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# RIGHTS OF THE CHILD

## Report of the working group on a draft optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts on its fifth session

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GE.99-11697 (E)

## Introduction

1. The Commission on Human Rights, in paragraph 14 (c) of its resolution 1998/76, requested the working group on a draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts to meet in early 1999, primarily to consider the Chairman's report on the status of informal consultations, and to report to the Commission on Human Rights at its fifty-fifth session.

2. The Economic and Social Council, in its decision 1998/271, approved the Commission's request.

## I. ORGANIZATION OF THE SESSION

### A. Opening and duration of the session

3. The fifth session of the working group was opened by the Deputy High Commissioner for Human Rights, who made a statement. During the session the working group held three plenary meetings, on 11 January and on 24 March 1999. The working group adopted its report on 24 March 1999.

### B. Election of the Chairman-Rapporteur

4. At its 1st meeting, on 11 January 1999, the working group elected Ms. Catherine von Heidenstam (Sweden) Chairman-Rapporteur.

### C. Participation

5. The representatives of the following States members of the Commission on Human Rights attended the meetings of the working group, which were open to all members of the Commission: Austria, Canada, Chile, China, Cuba, Czech Republic, Ecuador, El Salvador, France, Germany, Guatemala, India, Indonesia, Ireland, Japan, Latvia, Mauritius, Mexico, Norway, Pakistan, Peru, Philippines, Poland, Republic of Korea, Russian Federation, Sudan, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

6. The following States, non-members of the Commission, were represented by observers: Angola, Australia, Belgium, Bulgaria, Costa Rica, Croatia, Denmark, Egypt, Ethiopia, Estonia, Finland, Hungary, Iceland, Iran (Islamic Republic of), Iraq, Netherlands, New Zealand, Romania, Singapore, Slovakia, Spain, Sweden, Syrian Arab Republic, Turkey, Ukraine.

7. The following non-member States of the United Nations were also represented by observers: Holy See, Switzerland.

8. The following United Nations body was represented by observers: United Nations Children's Fund (UNICEF).

9. The International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies were also represented by observers.

10. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers: Amnesty International, Coalition against Trafficking in Women, Defence for Children International, Friends World Committee for Consultation (Quakers), Human Rights Watch, International Council of Women, International Federation Terre des Hommes, International Service for Human Rights, World Christian Life Community.

11. Pursuant to the invitation contained in paragraph 14 (a) of Commission resolution 1998/76, the Committee on the Rights of the Child was represented and the Special Representative of the Secretary-General on the impact of armed conflict on children was present at the meeting of the working group.

12. At the 1st meeting, on 11 January 1999, the Special Representative of the Secretary-General on the impact of armed conflict on children made a statement (see paras. 17-18 below). At the 2nd meeting, on 11 January 1999, Mr. Y. Kolosov, Vice-Chairman of the Committee on the Rights of the Child, addressed the working group on behalf of the Committee (see para. 21 below).

### D. Documentation

13. The working group had before it the following documents:

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| E/CN.4/1999/WG.13/1 | Provisional agenda |
| E/CN.4/1998/WG.13/2 and Add.1 | Report of the Secretary-General prepared pursuant to paragraph 14 (a) of Commission on Human Rights resolution 1998/76: comments on the report of the working group |
| E/CN.4/1999/WG.13/3 | Report of the Chairman of the working group |
| E/CN.4/1998/102 and Add.1 | Report of the working group on a draft optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts on its fourth session |
| A/53/482 | Report of the Special Representative of the Secretary-General for children and armed conflict |

14. The working group adopted its agenda, as contained in document E/CN.4/1999/WG.13/1, at its 1st meeting, on 11 January 1999.

## II. GENERAL DISCUSSION AND PROPOSALS

15. The Deputy High Commissioner for Human Rights, Mr. B. Ramcharan, greeted the working group on behalf of the High Commissioner and reiterated the importance that she attached to the rights of the child and the speedy conclusion of the work on the draft optional protocol. He referred to the growing involvement by many Governments, international organizations and NGOs in activities to protect children from involvement in armed conflicts and encouraged the further growth and development of such initiatives.

16. The Special Representative of the Secretary-General for children and armed conflict on children, Mr. Olara Otunnu, expressed his support for the efforts to conclude the work on the draft optional protocol and reiterated his support for raising the age limit for recruitment and participation in hostilities to 18. In that context, he expressed his appreciation to the Secretary-General who had recommended that the minimum age for United Nations peacekeepers should be 21 and should never be below 18. He also referred to the need to consider those political, social and economic conditions which might facilitate the involvement of children in armed conflicts.

17. The Special Representative of the Secretary-General asked for the support of all participants in the working group in five key areas. These included the need to bring political pressure to bear in order to translate the commitments made at the international level into realities on the ground; the need for follow-up with State entities and insurgent groups who had made commitments not to use children under 18 in their armed forces; to ensure that the briefing and public debate in the Security Council held for the first time in 1998 on the issue became an ongoing concern; to ensure that the fate of those children who had been used in hostilities was discussed from the very beginning of peace negotiations; and to ensure that when a conflict had ended, those responsible for post-conflict programmes placed the interests and needs of children in a position of central importance.

18. The Special Representative stated that the efforts of the working group were part of a larger strategy, and he looked forward to continuing to work with all concerned parties towards the eradication of the use of children in armed conflicts.

19. The observer for UNICEF reiterated the well-known position of UNICEF, that of fully endorsing the proposal to raise to 18 the minimum age of recruitment into armed forces and of participation of children in hostilities. In the case of already recruited children, she called upon all parties to conflicts to demobilize them immediately and ensure their psychological recovery and social reintegration. She reminded the working group that this position did not prevent persons below 18 from entering military schools but did prevent schools being used as an excuse or cover for the provision of children under 18 for participation in hostilities.

20. She stated that while the tenth anniversary of the Convention on the Rights of the Child would be celebrated this year, UNICEF's appraisal of its implementation had led her to conclude that article 38 had become the weakest provision of the treaty. Although many States made solemn declarations upon ratification that they would never recruit children below the age of 18, no one could have anticipated the steep rise in the number of civil conflicts that had occurred over the past decade and which had destroyed many children's lives worldwide. She described some of the different ways in which war impacted upon children lives, and called upon the working group to use its unique position to change these realities and indicate to the world that the use of children as tools of war would no longer be tolerated.

21. Mr. Y. Kolosov, Vice-Chairman of the Committee on the Rights of the Child, reiterated that the Convention on the Rights of the Child was a holistic document, all articles of which were intrinsically interrelated.

Consequently, the provisions contained in article 38 could not be separated from other rights set forth in the Convention, and the violation of one group of rights would inevitably result in the violation of other rights. He considered it abnormal that a different degree of protection was provided in the Convention for persons who had attained the age of 15 years and for those of 18 years of age. He stated that the members of the Committee on the Rights of the Child had been naive to believe that the Commission on Human Rights would be able to adopt the draft optional protocol very expeditiously. This belief had arisen because the original text drafted by the Committee was very simple and the document was foreseen to be of an optional nature. The Committee also believed that, because of the optional character of the future instrument, the need for consensus would not be invoked to hinder its adoption. In view of the fact that no consensus appeared to be possible on the key element of the draft optional protocol, Mr. Kolosov suggested that article 50 of the Convention on the Rights of the Child dealing with amendments could be looked at. In his view, any optional protocol was by its nature an amendment to the convention concerned. Consequently, and pursuant to article 50, it would be in the sole competence of the States parties to adopt any decisions in this regard through a Conference of States parties.

22. A similar opinion was expressed by one delegation which insisted that the Conference of States Parties to the Convention on the Rights of the Child could be used as one of the forums for finalizing the work on the draft optional protocol.

23. At its 1st and 2nd meetings, on 11 January 1999, following the introduction by the Chairman of her report (E/CN.4/1999/WG.13/3), the working group held a general discussion in the course of which the participants expressed their views on this document. Regret was expressed by some speakers that it was not realistic to believe that the working group would be able to reach an agreement on the draft optional protocol during the present session. The working group agreed with the Chairman's conclusions as contained in paragraph 6 of her report and decided that her report should be annexed to the working group's report to the Commission. The working group agreed that more time and consultations were needed in order to reach an agreement on the draft optional protocol.

24. In this regard, the working group was encouraged by the wide support given to it by the international human rights community for continuing its efforts to reach an early agreement on the draft optional protocol. The working group was convinced that closer cooperation between Governments, United Nations bodies and other international organizations and NGOs was needed in order to ensure better protection to children and prevent them from participating in armed conflicts.

25. The working group agreed to recommend to the Commission on Human Rights that the Chairman should again be encouraged to continue her broad informal consultations with the aim of promoting an agreement on the optional protocol and to produce a report thereon during 1999, including recommendations and/or ideas on the best way for the formal negotiations to proceed. Such consultations should be carried out in a transparent manner and include all interested parties.

26. The working group further recommends to the Commission on Human Rights to authorize the working group to meet in one year's time with the aim of finalizing its work on the optional protocol and to report to the Commission at its fifty-sixth session. The Secretary-General should be requested to give the necessary support to the working group to meet for a maximum of two weeks.

27. In view of the forthcoming commemoration, on 20 November 1999, of the tenth anniversary of the adoption by the General Assembly of the Convention on the Rights of the Child, the working group reaffirms, with a sense of urgency, its aim and ambition to finalize the draft optional protocol in the year 2000.

## Annex

## REPORT OF THE CHAIRMAN OF THE WORKING GROUP PREPARED PURSUANT TO COMMISSION RESOLUTION 1998/76*

### Introduction

1. In paragraph 14 (b), (c) and (d) of its resolution 1998/76 of 22 April 1998, entitled "Rights of the child", the Commission on Human Rights encouraged the Chairman of the working group to conduct broad informal consultations with the aim of promoting an early agreement on the optional protocol and to produce a report thereon by the end of 1998 including, if possible, recommendations and/or ideas on the best way for the formal negotiations to proceed. The Commission requested the working group to meet in early 1999, primarily to consider the Chairman's report on the status of informal consultations, which should be available well in advance, and to report to the Commission on Human Rights at its fifty-fifth session. The Secretary-General was requested to give the necessary support to the working group to meet for a maximum of two weeks, if the working group decided that an agreement on the draft optional protocol was possible at that session.

2. The report prepared by the Chairperson of the working group, Ms. Catherine von Heidenstam (Sweden), is reproduced below.

### I. REVIEW OF CONSULTATIONS AND RECOMMENDATIONS TO THE WORKING GROUP

3. The Chairman has conducted broad informal consultations with the Committee on the Rights of the Child, the Special Representative of the Secretary-General on children in armed conflict, as well as with representatives of Governments, United Nations agencies, international organizations, including the International Committee of the Red Cross (ICRC) and NGOs. The Chairman was able to acknowledge the existence of a genuine desire to strengthen the international standards for protection of children in armed conflicts, in particular by raising the minimum age for recruitment and participation in hostilities. The Chairman noted, however, as did the working group at its fourth session, a lack of consensus on raising the minimum age to 18 years.

4. Based on these consultations, the Chairman has concluded that there is general support for finalizing the draft optional protocol. An increased awareness of the deplorable use of children in armed conflicts and commitment to combating it was noted. In this context the Chairman noted a number of activities to protect children from involvement in armed conflicts.

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* As contained in document E/CN.4/1999/WG.13/3.

5. In view of the limited progress achieved at the previous session of the working group, as well as the time constraints, the Chairman has concluded that more time is needed for consultations and preparation. Considering the widespread concern, the Chairman believes that her initial consultations ought to continue for another year in order to enable her to formulate recommendations on the best way for the formal negotiations to proceed. The Chairman believes that her task will be positively supported by parallel activities, inter alia in the field, by Governments, United Nations agencies, the Committee on the Rights of the Child, international organizations and NGOs. By their actions, the Secretary-General, the Security Council, the High Commissioner for Human Rights and the Special Representative of the Secretary-General on children in armed conflict have demonstrated their willingness to fulfil their special roles and responsibilities in this matter.

6. The Chairman believes that more consultations are required before further negotiations on the texts are carried out in the working group. Consequently, she wishes to propose that, during its fifth session, the working group meet for a brief period only, preferably not more than two days, beginning on 11 January 1999, in order to give States the opportunity to consider the Chairman's report and to agree on a recommendation to the Commission on Human Rights that she be encouraged to continue her informal consultations. As a sense of urgency prevails regarding the matter, the aim should be to finalize the draft optional protocol by the tenth anniversary of the Convention on the Rights of the Child, in accordance with Commission resolution 1998/76.

## II. BACKGROUND AND SCOPE OF THE ISSUE

7. According to article 1 of the Convention on the Rights of the Child, "a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier". Its article 38.2 and 38.3 prescribes that:

> "2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities.
>
> 3. States Parties shall refrain from recruiting any person who has not attained the age of 15 years into their armed forces. In recruiting among those persons who have attained the age of 15 years but who have not attained the age of 18 years, States Parties shall endeavour to give priority to those who are oldest."

8. In 1993, following a special appeal by the World Conference on Human Rights, the Committee on the Rights of the Child recommended the adoption of an optional protocol to the Convention on the Rights of the Child with the purpose of raising the minimum age to 18 years, and subsequently prepared a draft for such a protocol.

9. In 1994, the Commission on Human Rights established an open-ended working group on a draft optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts (resolution 1994/91).

10. The purpose of the working group is to elaborate, as a matter of priority, a legal instrument in the form of a draft optional protocol to the Convention on the Rights of the Child, the aim being to achieve a universal agreement, on raising the minimum age for recruitment into armed forces and other groups as well as for participation in hostilities from the age of 15 years stipulated at present. This is based on a common perception that there is an urgent need to take action to strengthen the protection of children in armed conflicts through more advanced international standards, the central issue being to protect children from being used in combat.

11. The working group held its first session in October-November 1994, followed by three sessions in January 1996, January 1997 and February 1998. The working group has each time reported to the Commission on Human Rights, which in its turn has mandated the working group to continue its work in order to finalize the draft optional protocol. The next, fifth, session of the working group, is scheduled to start on 11 January 1999 and last for a maximum period of two weeks.

12. The working group has held a number of plenary meetings during which general questions relating to a draft optional protocol were discussed. These meetings have been supplemented by informal meetings in the form of open-ended consultations with the Chairman.

13. The working group is open-ended in character. Some 40 countries have participated in its discussions, as well as an average of 30 United Nations bodies and agencies, international organizations and NGOs. The text originally drafted by the Committee on the Rights of the Child has served as the basis for its work.

14. The working group decided, at its fourth session in February 1998, to adjourn early as it was evident that there was no possibility of reaching agreement on the proposed optional protocol within the allotted time-frame. During that session, the Chairman had circulated a paper, setting out his perception of a draft optional protocol. The working group agreed to add a revised version of this paper, entitled "Chairman's perception" as annex II to the report of the working group on its fourth session (E/CN.4/1998/102 and Add.1).

15. The main topics discussed by the working group during the general discussion on questions relating to the draft optional protocol included the minimum age for participation in hostilities, the issue of direct or indirect involvement in hostilities, the age of recruitment, be it voluntary or compulsory, into armed forces, and the possibility of including a clause to prevent child recruitment by non-governmental armed groups.

16. During the latest session of the working group, differences remained among States on the question of the minimum age for participation in hostilities. The working group recognized recruitment as the crucial element in order to prevent the involvement of children in armed conflicts. However, no agreement was reached among States on the minimum age for recruitment, including recruitment by non-governmental entities. This is reflected in the report of the working group to the Commission on Human Rights at its fifty-fourth session (E/CN.4/1998/102).

17. In paragraphs 12 and 14 of resolution 1998/76, the Commission on Human Rights, inter alia, called upon all States and other parties to armed conflict to end the use of children as soldiers and to ensure their demobilization, and decided to encourage the Chairman of the working group to conduct broad informal consultations with the aim of promoting an early agreement on the optional protocol and to produce a report thereon.

18. Several important developments have taken place which have advanced the issue. During its four sessions, the working group has been able to reach some progress. Differences have been narrowed down. However, agreement still remains to be reached on the central issue of the draft optional protocol, namely increasing the minimum age to 18.

## III. ADVOCACY AND ACTION

19. In order to introduce a non-exhaustive summary of relevant activities and signs favouring continued consultations in order to achieve an optional protocol, the Chairman first wishes to refer to some elements of a statement made by the High Commissioner for Human Rights to the working group on 9 February 1998. The High Commissioner's remarks coincide well with the Chairman's impressions from her consultations, illustrating growing support for achieving agreement on the remaining issues. The High Commissioner for Human Rights noted in brief:

(a) A growing tendency towards consensus among Governments, United Nations agencies, international organizations and NGOs that the minimum age for participation in hostilities should be set at 18 years, as recommended by Ms. Graça Machel, the former expert on the impact of armed conflicts on children, by UNICEF, UNHCR and ICRC, as well as by a wide variety of NGOs, in line with the view expressed by the Committee on the Rights of the Child that persons below the age of 18 should not be involved in hostilities, nor recruited, a view supported by Mr. Olara Otunnu, Special Representative of the Secretary-General on the impact of armed conflict on children, in his statements and reports;

(b) A readiness among delegations to adjust their positions and change national legislation to make it compatible with new international standards;

(c) A widespread sentiment that the working group, although searching for solutions that would have the broadest possible support, would not be prepared to accept an unsatisfactory compromise, bearing in mind also the optional character of the protocol.

20. In October 1998, the Secretary-General of the United Nations announced his decision to establish a minimum age requirement for United Nations peacekeepers, asking contributing Governments to send, in their national contingents, troops preferably not younger than 21 years, and in no case less than 18, and not to send civilian police and military observers younger than 25 years. It was explicitly said that this decision has been taken as an additional and proactive measure in the United Nations efforts to promote the rights of the child and also to create an example for police and military forces worldwide. At the Meeting of the Organization for Security and

Cooperation in Europe (OSCE), Implementation on Human Dimension Issues, held in Warsaw in November 1998, it was proposed that OSCE follow the same rules in its operations.

21. The United Nations Security Council, in a presidential statement (PRST/1998/28) on 29 June 1998, following an open debate in the Security Council on the question of children in armed conflicts, stressed the harmful impact of armed conflict on children and expressed the intention of the Security Council to pay serious attention to the situation of children affected by armed conflicts.

22. At its meeting in October 1998, the Committee on the Rights of the Child, the initiator of the draft optional protocol, increasingly alarmed at the tragic consequences for children of their direct or indirect involvement in armed conflict, recalled:

> "The Committee has repeatedly formulated its strong belief in the need to complement the effective implementation of existing standards of protection under the Convention on the Rights of the Child with the improvement of the existing normative framework. In this sense, the Committee has resolutely restated and endorsed all calls for the drafting and adoption of an optional protocol which would require States that voluntarily ratify the optional protocol to raise the minimum age for mandatory recruitment or voluntary enlistment of children into armed forces, and for direct or indirect involvement of children in hostilities, to 18 years".

23. The Executive Committee of the UNHCR Programme, recognizing that refugee and newly repatriated children are at highest risk of illegal recruitment, has adopted a conclusion on the protection of refugee children, calling upon States to participate constructively in the negotiations on an optional protocol with the aim of achieving early agreement on the text. UNHCR has repeatedly stated its support for the drafting of this optional protocol and its view that there should be a clearly established limit of 18 years for all forms of participation in and recruitment to armed forces.

24. The Special Representative of the Secretary-General on children in armed conflict has visited several countries in which children have been exploited as soldiers, such as Sierra Leone, Liberia and Sri Lanka, to discuss the situation of children affected by war, including the question of release and demobilization of child soldiers. The Special Representative was able to obtain promises from the concerned parties that they would abstain from using child soldiers. The Special Representative also visited Kosovo.

25. The United Nations General Assembly has adopted resolution 53/128 on the rights of the child, in which inter alia it urged States and all other parties to armed conflict to adopt all necessary measures to end the use of children as soldiers and to ensure their demobilization and effective disarmament, and stresses the urgent need to raise current human rights standards, supports the work of the working group and the task given to its chairman to undertake broad informal consultations, and expresses the hope that it will make further progress prior to the fifty-fifth session of the Commission with a view to finalizing this work.

26. The Rome Statute of the International Criminal Court, adopted in July 1998, stipulates that conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities is a war crime in both international and non-international armed conflicts.

27. The members of the Organization of African Unity (OAU) have adopted the African Charter on the Rights and Welfare of the Child, which is open for ratification. Stipulating that a child means every human being below the age of 18 years, the Charter further stipulates that States Parties shall take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain, in particular, from recruiting any child.

28. Some States are now in the process of changing their national legislation in order to bring it into conformity with their ambitions to achieve higher international standards for the prevention of the use of children in hostilities.

29. Several Governments, United Nations agencies, international organizations and NGOs have initiated an increasing number of programmes in affected countries like Sierra Leone, Uganda, Liberia, Sudan and Sri Lanka, in order to identify child soldiers, obtain their release and demobilization, and to provide them with physical and psychological support and education in order to facilitate their return to normal life.

30. A United States congressional resolution of October 1998 has been included in the United States Department of Defence Appropriations Act for Fiscal Year 1999. It condemns inter alia the use of child soldiers and urges no blocking of international efforts to establish 18 years as the minimum age for participation in armed conflicts.

31. The NGO Coalition to Stop the Use of Child Soldiers was established in June 1998. It will organize public education and media campaigns and regional conferences with the aim of stopping the use of children in armed conflict and stressing the importance of concluding an optional protocol prohibiting the military recruitment and use in hostilities of all children under the age of 18.

32. In June 1998, a conference on children in armed conflict was organized by the Government of the United Kingdom and the Special Representative of the Secretary-General on children in armed conflict. A similar symposium for the Asian and Pacific region was organized in cooperation with the Government of Japan. They will be followed by conferences in other regions. The European Parliament organized a special meeting in December 1998 on child soldiers in cooperation with the NGO Coalition.

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